Pages 12229–12335

FEDERAL REGISTER

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Contents

(*Continued on next page*)

Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1964, and specifies how they are affected.

3 CFR

PROCLAMATION:
3609 12231

7 CFR

301 12233
1001 12236
1006 12236
1007 12236
1014 12236
1015 12248

12 CFR

1 (4 documents) 12298–12300
10 12300
11 12301
12 12303
16 12303

14 CFR

71 [New] (2 documents) 12260, 12261
75 [New] (4 documents) 12261
97 [New] 12262
1245 12273

PROPOSED RULES:
71 [New] 12317
75 [New] (2 documents) 12317, 12319

16 CFR

13 (2 documents) 12305; 12306

20 CFR

404 12285

38 CFR

3 12260

41 CFR

18–9 12275

43 CFR

PUBLIC LAND ORDERS:
3441 12233

45 CFR

170 12307

50 CFR

32 (2 documents) 12315
253 12315

PROPOSED RULES:
12 12317
32 12317

Presidential Documents

Title 3—THE PRESIDENT

Proclamation 3609

CHILD HEALTH DAY, 1964

By the President of the United States of America

A Proclamation

WHEREAS the united efforts of parents and of the professions serving children and youth through our voluntary and governmental agencies give American boys and girls a greater chance for longer, healthier life; and

WHEREAS scientific research has shown ways to conquer or prevent many of the crippling diseases that were once the universal scourge of childhood; and

WHEREAS medical progress now makes it possible for millions of American children to enjoy physical, emotional, and spiritual growth to healthy adulthood; and

WHEREAS pride in past accomplishments underscores the daily challenge to continue and expand these efforts to benefit children in our own country and throughout the world; and

WHEREAS the Congress, by a joint resolution of May 18, 1928, 45 Stat. 617, as amended by a joint resolution of September 22, 1959, 73 Stat. 627 (36 U.S.C. 143), requested the President of the United States to issue annually a proclamation setting apart the first Monday in October as Child Health Day; and

WHEREAS Child Health Day is an appropriate time to observe a Universal Children's Day and to salute the work of the United Nations and the efforts of its specialized agencies and of the United Nations Children's Fund to build better health for children around the world:

NOW, THEREFORE, I, LYNDON B. JOHNSON, President of the United States of America, do hereby designate Monday, October 5, 1964, as Child Health Day; and I invite all persons and all agencies and organizations interested in the welfare of youth to mark that day with activities which will help promote opportunities for all children to attain an adulthood that will be satisfying to them and will enhance their contribution to the progress of our society.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-fourth day of August in the year of our Lord nineteen hundred and sixty-four, and of the Independence of the United States of America the one hundred and eighty-ninth.

[SEAL]

LYNDON B. JOHNSON

By the President:

DEAN RUSK,
Secretary of State.

[F.R. Doc. 64-8761; Filed, Aug. 25, 1964; 2:38 p.m.]

Rules and Regulations

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 3441]

[Nevada 054629]

NEVADA

Withdrawing Lands for Sunnyside Wildlife Management Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following-described lands which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, but not from leasing under the mineral leasing laws, and reserved for management in cooperation with the State of Nevada Sunnyside Wildlife Management Area:

MOUNT DIABLO MERIDIAN

T. 5 N., R. 60 E.,
Sec. 1, lots 1, 2, SW¼NE¼, and NW¼SW¼;
Sec. 2, SE¼SE¼;
Sec. 11, E½NE¼;
Sec. 12, SW¼;
Sec. 13, N½NW¼.
T. 6 N., R. 60 E.,
Sec. 36, SE¼SE¼.
T. 6 N., R. 61 E.,
Sec. 1, lot 4, SW¼NW¼;
Sec. 2, lots 1, 3, 4, SE¼NE¼, SW¼NW¼, and W½SE¼;
Sec. 3, S½;
Sec. 4, E½SW¼, SW¼SW¼, and SE¼;
Sec. 5, SE¼SE¼;
Sec. 7, SE¼SE¼;
Sec. 8, E½NE¼, SW¼NE¼, SE¼NW¼, SW¼SW¼, E½SW¼, N½SE¼, and SW¼SE¼;
Sec. 10, NE¼ and E½NW¼;
Sec. 11, W½NE¼, SE¼NW¼, and SE¼SW¼;
Sec. 14, NW¼;
Sec. 15, SE¼;
Sec. 18, lot 1, NW¼NE¼, NE¼NW¼, and NE¼SE¼;
Sec. 20, SW¼NW¼ and W½SW¼;
Sec. 22, E½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼, and SW¼SW¼;
Sec. 28, E½NE¼, SW¼NE¼, and SW¼;
Sec. 29, SE¼SE¼;
Sec. 30, E½SE¼;
Sec. 31, lot 3;
Sec. 32, NW¼NE¼ and E½NW¼.
T. 7 N., R. 61 E.,
Sec. 25, S½NE¼, E½SW¼, SW¼SW¼, and NW¼SE¼;
Sec. 35, E½NE¼, SW¼NE¼, and SW¼;
Sec. 36, E½NE¼, SW¼NE¼, NW¼NW¼, E½SW¼, and SE¼.
T. 7 N., R. 62 E.,
Sec. 30, lot 4, SE¼SW¼, and SW¼SE¼;
Sec. 31, lots 1 to 4 incl., NE¼, E½W½, N½SE¼, and SW¼SE¼;
Sec. 32, W½NW¼, and NW¼SW¼.

The areas described aggregate approximately 5,593 acres.

2. Upon execution of a cooperative agreement with the Secretary of the Interior or his delegate, the State of Nevada is authorized to manage the withdrawn lands for the conservation of small game and waterfowl and as a public hunting and fishing grounds consistent with Federal programs for the management of the lands.

3. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral and vegetative resources other than under the mining laws. However, leases, licenses, contracts, or permits will be issued only if the proposed use of the lands will not interfere with the proper management of the Sunnyside Wildlife Management Area.

JOHN A. CARVER, JR.,
Assistant Secretary of the Interior.

AUGUST 21, 1964.

[F.R. Doc. 64-8682; Filed, Aug. 26, 1964; 8:46 a.m.]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

[P.P.C. 629, 6th Rev.]

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Imported Fire Ant

REGULATED AREAS

Pursuant to § 301.81-2 of the regulations supplemental to the imported fire ant quarantine (7 CFR 301.81-2), under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), administrative instructions appearing as 7 CFR 301.81-2a are hereby revised to read as follows:

§ 301.81-2a Administrative instructions designating regulated areas under the imported fire ant quarantine.

Infestations of the imported fire ant have been determined to exist in the counties, parishes, other civil divisions, or parts thereof, listed below, or it has been determined that such infestation is likely to exist therein, or it is deemed necessary to regulate such localities because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. Accordingly, such counties, parishes, other civil divisions, or parts thereof, are hereby designated as imported fire ant regulated areas within the meaning of the provisions of this subpart:

ALABAMA

(1) *Generally infested area.*
Autauga County. The entire county.
Baldwin County. The entire county.
Barbour County. The entire county.
Bibb County. The entire county.
Bullock County. The entire county.
Butler County. The entire county.
Calhoun County. E⅔ T. 15 S., R. 6 E.; secs. 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 35, and 36, T. 16 S., R. 6 E., and that portion of sec. 34, T. 16 S., R. 6 E., lying in the county; W⅔ Tps. 15 and 16 S., R. 7 E.; secs. 35 and 36, T. 16 S., R. 7 E.; secs. 31 and 32, T. 16 S., R. 8 E.; secs. 32, 33, and 34, T. 14 S., R. 9 E.; and secs. 3, 4, and 5, T. 15 S., R. 9 E.
Chambers County. S½ T. 22 N., Rs. 26 and 27 E.; that portion of T. 22 N., R. 28 E. lying in the county; those portions of secs. 31 and 32, T. 22 N., R. 29 E. lying in the county; and that portion of the county lying south of the north line of T. 21 N.
Chilton County. The entire county.
Choctaw County. The entire county.
Clarke County. The entire county.
Clay County. Those portions of Tps. 21 and 22 S., Rs. 5 and 6 E. lying in the county.
Coffee County. The entire county.
Conecuh County. The entire county.
Coosa County. The entire county.
Covington County. The entire county.
Crenshaw County. The entire county.
Dale County. The entire county.
Dallas County. The entire county.
Elmore County. The entire county.
Escambia County. The entire county.
Etowah County. N½ T. 11 S., R. 6 E., S½ T. 11 S., Rs. 5, 6, and 7 E., and all of the county within Rs. 5, 6, and 7 E. lying south of the north line of T. 12 S.
Geneva County. The entire county.
Greene County. The entire county.
Hale County. The entire county.
Henry County. The entire county.
Houston County. The entire county.
Jefferson County. The entire county.
Lamar County. The entire county.
Lee County. The entire county.
Limestone County. S½ T. 3 S., R. 4 W.; T. 4 S., R. 4 W.; all of T. 5 S., R. 4 W. lying north of the Tennessee River; SE¼ T. 3 S., R. 5 W.; and that part of the E½ T. 4 S., R. 5 W. lying north of the Tennessee River.
Lowndes County. The entire county.
Macon County. The entire county.
Marengo County. The entire county.
Mobile County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Morgan County. N½ T. 6 S., Rs. 4 and 5 W.; and those portions of T. 5 S., Rs. 4 and 5 W., and T. 4 S., R. 5 W., lying south of the Tennessee River.
Perry County. The entire county.
Pickens County. The entire county.
Pike County. The entire county.
Russell County. The entire county.
St. Clair County. The entire county.
Shelby County. The entire county.
Sumter County. The entire county.
Talladega County. The entire county.
Tallapoosa County. That portion of the county lying south of the north line of T. 20 N.
Tuscaloosa County. The entire county.
Walker County. The entire county.
Washington County. The entire county.
Wilcox County. The entire county.
(2) *Eradication area.* None.

ARKANSAS

(1) *Generally infested area.* None.
(2) *Eradication area.*
Ashley County. Those portions of Tps. 18 and 19 S., Rs. 6, 7, 8, 9, and 10 W., lying in Ashley County.
Union County. The entire county.

FLORIDA

(1) *Generally infested area.*
Bay County. The entire county.
Calhoun County. The entire county.
Clay County. That portion of the county bounded by a line beginning at a point where the northeast fork of Little Black Creek intersects the Duval-Clay County line; thence extending east along the Duval-Clay County line to the St. Johns River; thence south along the St. Johns River to the mouth of Black Creek; thence north and west along Black Creek to the mouth of Little Black Creek; thence north along Little Black Creek to the point of beginning.
Duval County. The entire county.
Escambia County. The entire county.
Gadsden County. The entire county.
Gulf County. The entire county.
Hardee County. N⅔ T. 33 S., Rs. 23, 24, 25, and 26 E.
Hernando County. That portion of T. 23 S., Rs. 16 and 17 E., lying west of U.S. Highway 19.
Hillsborough County. The entire county.
Holmes County. The entire county.
Jackson County. The entire county.
Lake County. Secs. 23, 24, 25, 26, 35, and 36, T. 19 S., R. 28 E.; secs. 19, 20, 29, 30, 31, and 32, T. 19 S., R. 29 E.; and those portions of secs. 21, 28, and 33, T. 19 S., R. 29 E., lying in the county.
Leon County. The entire county.
Liberty County. The entire county.
Manatee County. The entire county.
Okaloosa County. The entire county.
Orange County. T. 20 S., R. 28 E., and that portion of R. 29 E. lying within the county. T. 21 S., N⅔ R. 28 E. That portion of the county bounded by a line beginning at a point where U.S. Highway 441 intersects the Orange-Seminole County line, said point being on the north boundary of sec. 30, T. 21 S., R. 29 E.; thence east and south along said county line to the west line of sec. 2, T. 22 S., R. 31 E.; thence due south to the north line of sec. 34, T. 22 S., R. 31 E.; thence due west to the west line of sec. 27, T. 22 S., R. 30 E.; thence due north to the south line of sec. 9, T. 22 S., R. 30 E.; thence due west along said section lines to the intersection with U.S. Highway 441; thence northwest along said highway to the point of beginning.
Pasco County. That portion of the county bounded by a line beginning at a point where the Pasco-Hernando County line meets the Gulf of Mexico; thence east along the Pasco-Hernando County line to its intersection with U.S. Highway 41; thence southwest along U.S. Highway 41 to its intersection with State Highway 52; thence east along said highway to the corporate limits of Dade City; thence south and east along the corporate limits of Dade City to the intersection of U.S. Highway 98; thence south and southeast along said highway to its intersection with the Pasco-Polk County line; thence west and south along the Pasco-Polk County line to its intersection with the Hillsborough County line; thence west along the Pasco-Hillsborough and Pasco-Pinellas County lines to the Gulf of Mexico; thence in a northly direction along the Gulf of Mexico to the point of beginning.
Pinellas County. The entire county.
Polk County. All of Polk County lying west of a line beginning at the intersection of U.S. Highway 27 and the north Polk County line, thence south along said highway to its intersection with the Highlands County line, excluding all of the cities of Haines City, Lake Hamilton, and Dundee. All of sections 15, 16, 21, and 22 T. 29 S., R. 27 E. not covered in the above description.
Santa Rosa County. The entire county.
Seminole County. The entire county.
Walton County. The entire county.
Washington County. The entire county.
(2) *Eradication area.* None.

GEORGIA

(1) *Generally infested area.*
Baker County. The entire county.
Ben Hill County. The entire county.
Chattahoochee County. The entire county.
Clay County. The entire county.
Clayton County. The entire county.
Colquitt County. The entire county.
Crisp County. The entire county.
Decatur County. The entire county.
Dodge County. The entire county.
Dooly County. The entire county.
Dougherty County. The entire county.
Early County. The entire county.
Grady County. The entire county.
Harris County. The entire county.
Irwin County. That portion of the county lying north and west of U.S. Highway 319 and State Highway 32, including all the corporate limits of Ocilla.
Lamar County. That portion of the county lying in Milner Georgia Militia District 540, Barnesville Georgia Militia District 533, and Piedmont Georgia Militia District 1494.
Lee County. The entire county.
Macon County. That portion of the county lying in Ideal Georgia Militia District 757 and Englishville Georgia Militia District 740.
Marion County. The entire county.
Meriwether County. The entire county.
Miller County. The entire county.
Mitchell County. The entire county.
Pike County. The entire county.
Pulaski County. That portion of the county bounded on the north by Big Tucsawhatchee Creek and on the east by Ocmulgee River.
Quitman County. That portion of the county lying north of U.S. Highway 82, excluding all of the area within the corporate limits of the city of Georgetown.
Randolph County. That portion of the county lying in Georgia Militia District 718, Georgia Militia District 954, and Georgia Militia District 1566.
Schley County. The entire county.
Stewart County. The entire county.
Sumpter County. That portion of the county lying east of the Muckalee Creek.
Talbot County. The entire county.
Taylor County. That portion of the county lying in Carsonville Georgia Militia District 743, Daviston Georgia Militia District 737, Howard Georgia Militia District 853, Rustin Georgia Militia District 1656, Cedar Creek Georgia Militia District 1071, and Butler Georgia Militia District 757.
Terrell County. The entire county.
Thomas County. The entire county.
Troup County. The entire county.
Turner County. The entire county.
Upson County. The entire county.
Wilcox County. The entire county.
Worth County. The entire county.
(2) *Eradication area.*
Bibb County. The entire county.
Bleckley County. The entire county.
Crawford County. That portion of the county lying in Tabor Georgia Militia District 529.
De Kalb County. The entire county.
Fulton County. That portion of the county lying in the corporate limits of Hapeville, College Park, East Point, and Atlanta; and that portion of the county lying north of the corporate limits of Atlanta to the Chattahoochee River.
Gwinnett County. That portion of the county lying south and west of Georgia Highway 120 and Georgia Highway 124, including all of the area in the corporate limits of Snellville, Lawrenceville, and Duluth.
Henry County. The entire county.
Houston County. The entire county.
Jones County. The entire county.
Monroe County. That portion of the county lying in Georgia Militia District 473 and Georgia Militia District 618.
Muscogee County. The entire county.
Peach County. That portion of the county lying in Fort Valley Georgia Militia District 1813 and Myrtle Georgia Militia District 1815.
Pierce County. The entire county.
Seminole County. The entire county.
Telfair County. That portion of the county lying in Georgia Militia District 338.
Tift County. The entire county.

LOUISIANA

(1) *Generally infested area.*
Acadia Parish. The entire parish.
Allen Parish. The entire parish.
Ascension Parish. The entire parish.
Assumption Parish. The entire parish.
Avoyelles Parish. The entire parish.
Beauregard Parish. The entire parish.
Calcasieu Parish. The entire parish.
Cameron Parish. The entire parish.
East Baton Rouge Parish. The entire parish.
East Feliciana Parish. The entire parish.
Evangeline Parish. The entire parish.
Iberia Parish. The entire parish.
Iberville Parish. The entire parish.
Jefferson Parish. The entire parish.
Jefferson Davis Parish. The entire parish.
Lafayette Parish. The entire parish.
Lafourche Parish. The entire parish.
Livingston Parish. The entire parish.
Orleans Parish. The entire parish.
Plaquemines Parish. The entire parish.
Pointe Coupee Parish. The entire parish.
St. Bernard Parish. The entire parish.
St. Charles Parish. The entire parish.
St. Helena Parish. The entire parish.
St. James Parish. The entire parish.
St. John the Baptist Parish. The entire parish.
St. Landry Parish. The entire parish.
St. Martin Parish. The entire parish.
St. Mary Parish. The entire parish.
St. Tammany Parish. The entire parish.
Tangipahoa Parish. The entire parish.
Terrebonne Parish. The entire parish.
Vermilion Parish. The entire parish.
Washington Parish. The entire parish.
West Baton Rouge Parish. The entire parish.
West Feliciana Parish. The entire parish.
(2) *Eradication area.*
Bossier Parish. The entire parish.
Caddo Parish. The entire parish.
Caldwell Parish. The entire parish.
Catahoula Parish. The entire parish.
Concordia Parish. The entire parish.
East Carroll Parish. The entire parish.
Franklin Parish. The entire parish.
Grant Parish. That portion of Grant Parish lying south of the north line of T. 6 N., and east of the west line of R. 1 W.
La Salle Parish. That portion of La Salle Parish lying south of the north line of T. 8 N.
Lincoln Parish. T. 18 N., Rs. 1 and 2 W.
Madison Parish. The entire parish.
Morehouse Parish. The entire parish.
Ouachita Parish. The entire parish.
Rapides Parish. The entire parish.
Red River Parish. That portion of the parish lying north of the north line of T. 12 N., and west of the west line of R. 9 W.
Richland Parish. The entire parish.
Tensas Parish. The entire parish.
Union Parish. The entire parish.
Webster Parish. Tps. 18 and 19 N., Rs. 9 and 10 W., and those portions of Tps. 18 and 19 N., R. 8 W. lying in Webster County.
West Carroll Parish. The entire parish.

MISSISSIPPI

(1) *Generally infested area.*
Adams County. The entire county.
Amite County. The entire county.
Chickasaw County. The entire county.
Choctaw County. The entire county.
Clarke County. The entire county.

Clay County. The entire county.
Copiah County. That portion of the county lying east of the east line of R. 4 W. and R. 6 E.
Covington County. The entire county.
Forrest County. The entire county.
George County. The entire county.
Greene County. The entire county.
Hancock County. The entire county.
Harrison County. The entire county.
Hinds County. That portion of the county lying east of the east line of R. 4 W., including all of the corporate limits of the city of Learned.
Itawamba County. That portion of the county lying south of the south line of T. 8 S.
Jackson County. The entire county.
Jasper County. The entire county.
Jefferson County. That portion of the county lying west of the west line of R. 3 E.
Jefferson Davis County. The entire county.
Jones County. The entire county.
Kemper County. The entire county.
Lamar County. The entire county.
Lauderdale County. The entire county.
Lawrence County. The entire county.
Leake County. T. 9 N., Rs. 6, 7, and 8 E.; T. 10 N., R. 6 E.; S½ T. 10 N., Rs. 7 and 8 E.; and sec. 25, T. 11 N, R 7 E
Lee County S½ T. 10 S., Rs. 5 and 6 E.; those portions of T. 10 S., R. 7 E. and T. 11 S., Rs. 5, 6, and 7 E., lying in Lee County including all of the corporate limits of the city of Plantersville.
Lowndes County. The entire county.
Madison County. The entire county.
Marion County. The entire county.
Monroe County. The entire county.
Neshoba County. The entire county.
Newton County. The entire county.
Noxubee County. The entire county.
Oktibbeha County. The entire county.
Pearl River County. The entire county.
Perry County. The entire county.
Pike County. The entire county.
Rankin County. The entire county.
Scott County. The entire county.
Simpson County. The entire county.
Smith County. The entire county.
Stone County. The entire county.
Walthall County. The entire county.
Wayne County. The entire county.
Webster County. The entire county.
Wilkinson County. The entire county.
Winston County. That portion of the county north of the north line of T. 13 N. and east of the east line of R. 11 E.
(2) *Eradication area.*
Attala County. N½ T. 14 N., R. 6 E.; S⅔ T. 15 N., R. 6 E.; and Tps. 14 and 15 N., R. 7 E.
Calhoun County. S½ T. 13 S., R. 1 E.; and that portion of the county lying south of the south line of T. 13 S. and east of the east line of R. 8 E. and R. 2 W.
Franklin County. T. 6 N., Rs. 1, 2, 3, 4, and 5 E.; T. 7 N., R. 5 E.; and those portions of Tps. 6 and 7 N., R. 6 E., lying in Franklin County.
Lincoln County. The entire county.
Sharkey County. The entire county.
Warren County. That area included within the corporate limits of the city of Vicksburg.
Washington County. The entire county.
Yazoo County. Those portions of T. 9 N., Rs. 1 and 2 W., T. 10 N., R. 2 E., and S½ T. 11 N., Rs. 2 and 3 E. lying in Yazoo County; and that portion of the county west of the west line of R. 4 W. and north of the Yazoo River.

SOUTH CAROLINA

(1) *Generally infested area.*
Berkeley County. That portion of the county bounded by a line beginning at a point where Alternate U.S. Highway 17 intersects the Berkeley-Dorchester County line, and extending northeast along said highway to its junction with State Secondary Highway 9; thence east along said highway to its junction with State Secondary Highway 260; thence northeast along said highway to its junction with State Secondary Highway 396; thence northeast along said highway to the West Branch of Cooper River; thence in a southerly direction along said river to its junction with the East Branch of Cooper River; thence northeast along said river to its junction with Quenby Creek; thence southeast along said creek to its intersection with State Secondary Highway 98; thence northeast along said highway to its junction with State Secondary Highway 133 at Huger; thence southeast along said highway to its intersection with the Berkeley-Charleston County line; thence in a southwesterly and northwesterly direction along said county line to the point of beginning.
Charleston County. That portion of the county bounded by a line beginning at a point where U.S. Highway 78 intersects the Charleston-Dorchester County line and extending northeast along said county line to its junction with the Charleston and Berkeley County line; thence south and east along said county line to its junction with Cooper River; thence in a southerly direction along said river to its junction with the Wando River; thence northeast along the Berkeley-Charleston County line to its junction with State Secondary Highway 1032; thence southeast along said highway to its junction with U.S. Highway 17 at Awendaw; thence in a westerly direction along said highway to its intersection with State Primary Highway 165; thence northwest along said highway to its intersection with the Charleston-Dorchester County line; thence along said county line to the point of beginning.
Dorchester County. That portion of the county bounded by a line beginning at a point where State Primary Highway 165 intersects the Charleston-Dorchester County line and extending northeast along said highway to its intersection with the southern boundary of the corporate limits of Summerville; thence northeast along said corporate limits to its intersection with the Charleston-Dorchester County line; thence in a southeasterly, southerly and westerly direction along said county line to the point of beginning.
Jasper County. That portion of the county bounded by a line beginning at a point where Black Swamp Creek enters the Savannah River; thence northeast along said creek to its intersection with the Tillman-Myers dirt road; thence southeast along said dirt road to the town limits of Tillman; thence along the west boundary of said town limits to its intersection with U.S. Highway 321; thence south along said highway to its intersection with the town limits of Hardeeville; thence along the western, southern, and eastern boundary of said town limits to a point where it intersects Secondary Road 141; thence northeast along said road to its intersection with New River; thence south along said river to the Atlantic Ocean; thence southwest to a point where the Savannah River enters the Atlantic Ocean; thence in a northwesterly direction along said river to the point of beginning.
Orangeburg County. That portion of the county bounded by a line beginning at a point where U.S. Highway 21 intersects the Orangeburg-Calhoun County line, and extending in a southeasterly direction along said county line to its intersection with Four Hole Swamp; thence southeast along said swamp to its intersection with State Primary Highway 121; thence southwest along said highway to its intersection with State Secondary Highway 92; thence southeast along said highway to its junction with State Secondary Highway 28; thence west along said highway to its junction with U.S. Highway 178; thence northwest along said highway to its intersection with the southeast boundary of the corporate limits of Bowman; thence southwest and northwest along said corporate limits to its intersection with State Primary Highway 121; thence southwest along said highway to its intersection with the corporate limits of Branchville; thence along the north boundary of said corporate limits to the intersection with State Secondary Highway 63; thence northwest along said highway to its intersection with North Fork Edisto River; thence generally north along said river to its intersection with State Secondary Highway 39; thence west along said highway to its junction with State Secondary Highway 49; thence northeast along said highway to its junction with State Secondary Highway 376; thence west along said highway to its junction with State Secondary Highway 90; thence generally north along said highway to its junction with State Secondary Highway 1072; thence northwest along said highway to its junction with U.S. Highway 301–601; thence east along said highway to its intersection with North Fork Edisto River; thence northwest along said river to its intersection with State Secondary Highway 74; thence northeast along said highway to its junction with U.S. Highway 178; thence southeast 1.6 miles along said highway to its intersection with a FAS unnumbered road; thence southeast along said FAS road to its intersection with U.S. Highway 21 at the north city limits of Orangeburg; thence north along said U.S. Highway 21 to the point of beginning; excluding the area within the corporate limits of the towns of Orangeburg, Rowesville, and Bowman.
(2) *Eradication area.* None.

TEXAS

(1) *Generally infested area.*
Bexar County. The entire county.
Hardin County. The entire county.
Harris County. The entire county.
Jasper County. The entire county.
Jefferson County. The entire county.
Liberty County. The entire county.
Montgomery County. The entire county.
Newton County. The entire county.
Orange County. The entire county.
Tyler County. The entire county.
(2) *Eradication area.* None.

(Sec. 9, 37 Stat. 318, sec. 106, 71 Stat. 33, 7 U.S.C. 162, 150ee. Interprets or applies sec. 8, 37 Stat. 318, as amended; 7 U.S.C. 161; 19 F.R. 74, as amended, 7 CFR 301.81–2)

This revision shall become effective August 27, 1964, when it shall supersede P.P.C. 629, 5th Revision (7 CFR 301.81–2a), effective July 20, 1963.

The purpose of the revision is to extend the regulated areas in 8 counties in Florida, 30 counties in Georgia, 4 parishes in Louisiana, 12 counties in Mississippi, and 3 counties in South Carolina.

These instructions impose restrictions supplementing imported fire ant quarantine regulations already effective. They should be made effective promptly in order to accomplish their purpose in the public interest. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the foregoing administrative instructions are impracticable and contrary to the public interest, and good cause is found for making the effective date thereof less than 30 days after publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 21st day of August 1964.

[SEAL] E. D. BURGESS,
Director,
Plant Pest Control Division.

[F.R. Doc. 64–8707; Filed, Aug. 26, 1964; 8:49 a.m.]

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 1]

PART 1001—MILK IN GREATER BOSTON, MASSACHUSETTS MARKETING AREA

Order Amending and Consolidating Orders

This order amends and consolidates under Part 1001 the order provisions of Parts 1001 (Greater Boston), 1006 (Springfield), 1007 (Worcester), and 1014 (Southeastern New England); consolidates the marketing areas defined under these four orders; and redesignates the reconstituted area as the Massachusetts-Rhode Island marketing area. Because of such merger of orders into Part 1001, separate Part numbers 1006, 1007, and 1014 are no longer appropriate and, therefore, are revoked and reserved for future reassignment of such Part numbers to other programs.

Subpart—Order Regulating Handling

AUTHORITY: The provisions of this Part 1001 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1001.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Greater Boston, Springfield, and Worcester, Massachusetts, and Southeastern New England marketing areas. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The Massachusetts-Rhode Island order, which amends and consolidates the Greater Boston, Springfield, and Worcester, Massachusetts, and Southeastern New England orders, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the Massachusetts-Rhode Island marketing area, and the minimum prices specified in the order, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The Massachusetts-Rhode Island order regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreements upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the Massachusetts-Rhode Island order, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his prorata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to all of a handler's receipts at pool plants during the month of fluid milk products from all sources, except receipts from pool plants, receipts from regulated plants under other Federal orders if such receipts were subject to an administration expense assessment under the other order, and receipts of exempt milk processed at plants other than pool plants. The payment shall also apply to the quantity of pool milk distributed as route disposition in the marketing area from a handler's nonpool plant.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending and consolidating the orders, is the

only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending and consolidating the orders is approved or favored by at least two-thirds (89.3 percent) of the 9,542 producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the orders regulating the handling of milk in the Greater Boston, Springfield, and Worcester, Massachusetts, and Southeastern New England marketing areas (Parts 1001, 1006, 1007, and 1014, respectively) shall be amended and consolidated into one order and the handling of milk in the consolidated marketing area, to be designated as the "Massachusetts-Rhode Island marketing area," shall be in conformity to, and in compliance with, the terms and conditions of Part 1001 as hereby amended. Parts 1006, 1007, and 1014 are hereby revoked and Part 1001 is hereby amended as follows:

GENERAL DEFINITIONS

§ 1001.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1001.2 Massachusetts-Rhode Island marketing area.

"Massachusetts–Rhode Island marketing area", referred to in this part as the "marketing area", means all territory within the places listed below, all waterfront facilities connected therewith and craft moored thereat, and all territory therein occupied by any governmental installation, institution, or other establishment:

MASSACHUSETTS

COUNTIES

Barnstable.
Bristol.
Dukes.
Norfolk.
Plymouth.
Suffolk.

CITIES AND TOWNS

Agawam.
Andover.
Arlington.
Ashland.
Auburn.
Ayer.
Bedford.
Belmont.
Beverly.
Billerica.
Blackstone.
Boylston.
Burlington.
Cambridge.
Charlton.
Chelmsford.
Chicopee.
Clinton.
Dracut.
Dudley.
Easthampton.
East Longmeadow.
Everett.
Fitchburg.
Framingham.
Gardner.
Grafton.
Groveland.
Haverhill.
Holden.
Holliston.
Holyoke.
Hopedale
Hopkinton.
Lancaster.
Lawrence.
Leicester.
Leominster.
Lexington.
Littleton.
Longmeadow.
Lowell.
Ludlow.
Lunenburg.
Lynn.
Lynnfield.
Malden.
Marblehead.
Marlborough.
Medford.
Melrose.
Mendon.
Merrimac.
Methuen.
Milford.
Millbury.
Millville.
Nahant.
Natick.
Newton.
Northampton.
North Andover.
Northborough.
North Reading.
Oxford.
Paxton.
Peabody.
Princeton.
Reading.
Rutland.
Salem.
Saugus.
Sherborn.
Shrewsbury.
Somerville.
Southborough.
Southbridge.
South Hadley.
Spencer.
Springfield.
Sterling.
Stoneham.
Sutton.
Swampscott.
Tewksbury.
Tyngsborough.
Upton.
Wakefield.
Waltham.
Watertown.
Wayland.
Webster.
Westborough.
West Boylston.
Westfield.
Westford.
Westminster.
West Newbury.
Weston.
West Springfield.
Wilbraham.
Wilmington.
Winchester.
Woburn.
Worcester.

RHODE ISLAND

All cities and towns except New Shoreham (Block Island).

§ 1001.3 Route disposition.

"Route disposition" means distribution of Class I milk by a handler to retail or wholesale outlets, which include vending machines but do not include plants or distribution points. The route disposition of a handler shall be attributed to the processing and packaging plant from which the Class I milk is moved to retail or wholesale outlets without intermediate movement to another processing and packaging plant.

DEFINITIONS OF PERSONS

§ 1001.5 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 1001.6 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1001.7 Producer.

"Producer" means a dairy farmer who produces milk which is moved, other than in packaged form, from his farm to a pool plant, or to any other plant as diverted milk. The term shall not include:

(a) A producer-handler under any Federal order;

(b) A dairy farmer with respect to milk which is considered as a receipt from a producer under the provisions of another Federal order;

(c) A dairy farmer for other markets;

(d) A dairy farmer with respect to certified milk received from him; or

(e) A dairy farmer who is a local or state government and has nonproducer status for the month under § 1001.26(d).

§ 1001.8 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales of, or marketing, milk or its products for its members.

§ 1001.9 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any person who operates any other plant, or a pool bulk tank unit as defined under another Federal order, from which fluid milk products are disposed of, directly or indirectly, in the marketing area; or

(c) Any person who does not operate a plant but who engages in the business of receiving fluid milk products for resale and distributes to retail or wholesale outlets packaged fluid milk products received from any plant described in paragraph (a) or (b) of this section.

§ 1001.10 Producer-handler.

"Producer-handler" means any person who, during the month, is both a dairy farmer and a handler and who meets the conditions specified in each of the paragraphs of this section.

(a) He provides as his own enterprise and at his own risk the maintenance, care, and management of the dairy herd and other resources and facilities which he uses to produce milk, to process and package such milk at his own plant, and to distribute it as route disposition.

(b) His own route disposition constitutes the majority of the route disposition from his plant.

(c) The quantity of route disposition in the marketing area from his plant is greater than in any other Federal marketing area.

(d) He receives no fluid milk products except from his own production and pool plants under any New England Federal order. If his receipts from own production and the total route disposition from his plant each exceed 2,150 pounds per day for the month, his receipts from New England Federal order pool plants are not in excess of 2 percent of his receipts from own production. For the purposes of this paragraph, his receipts of fluid milk products shall include receipts from plants of other persons at all retail and wholesale outlets which are located in New England Federal marketing areas and which are operated by him, an affiliate, or any person who controls or is controlled by him.

§ 1001.11 Dairy farmer for other markets.

"Dairy farmer for other markets" means any dairy farmer described in this section. For the purposes of this section, the acts of any person who is an affiliate of, or who controls or is controlled by, a handler or dealer shall be considered as having been performed by the handler or dealer. Receipts from a "dairy farmer for other markets" shall be considered as receipts from the plant to which his milk was delivered on a majority of the delivery days during the 12 months ending with the current month.

(a) The term includes a dairy farmer with respect to milk which is purchased from him during the month by a dealer who operates a plant but does not operate a pool plant, if the milk is moved to a pool plant directly from the dairy farmer's farm. The term shall not apply to the dairy farmer, however, if all the nonpool milk purchased from him during the month by the same dealer is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this part.

(b) The term includes a dairy farmer with respect to milk which is purchased from him during the month by a handler and moved to a pool plant, if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month. The term shall not apply to the dairy farmer, however, if all the nonpool milk is a receipt of producer milk under the provisions of another Federal order or will be such if the dairy farmer is a producer under this part.

(c) The term includes a dairy farmer with respect to milk which is received by a handler at a pool plant during any of the months of December through June, if the handler received nonpool milk from the same farm during any of the preceding months of July through November at a plant which is not a pool plant under any Federal order in the current month. The term shall not apply to the dairy farmer, however, if all the nonpool milk was a receipt of producer milk under the provisions of another Federal order or represented receipts from own production by a producer-handler under any Federal order.

Definitions of Plants

§ 1001.15 Plant.

"Plant" means the land and buildings, together with their surroundings, facilities, and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products. The term "plant" does not include:

(a) Distribution points (separate premises used primarily for the transfer to vehicles of packaged fluid milk products moved there from processing and packaging plants); or

(b) Bulk reload points (separate premises used for the transfer of milk en route from dairy farmers' farms to a plant, at which premises facilities for washing and sanitizing cans or tank trucks are not maintained and used).

§ 1001.16 Pool plant.

"Pool plant" means any plant which meets the applicable conditions for pool plant status as:

(a) A pool distributing plant, under § 1001.35;

(b) A cooperative association plant located in the marketing area, under § 1001.36; or

(c) A pool supply plant, under § 1001.37.

§ 1001.17 Exempt distributing plant.

"Exempt distributing plant" means a plant, other than a pool supply plant or a regulated plant under another Federal order, which meets all the requirements for status as a pool distributing plant except that its route disposition in the marketing area in the month does not exceed 700 quarts on any day or a daily average of 300 quarts.

§ 1001.18 Distributing plant for unregulated markets.

"Distributing plant for unregulated markets" means a processing and packaging plant from which the route disposition outside any Federal marketing area amounts to more than 50 percent of its total receipts of fluid milk products during the month. The term shall not apply to a pool plant, an exempt distributing plant under any New England Federal order, a producer-handler's plant under any Federal order, or a regulated plant under another Federal order.

§ 1001.19 Regulated plant under another Federal order.

"Regulated plant under another Federal order" means a pool plant or any other plant at which all fluid milk products handled become subject to the classification and pricing provisions of another Federal order. The term shall also include a pool bulk tank unit as defined under another Federal order.

Definitions of Milk and Milk Products

§ 1001.22 Fluid milk products.

"Fluid milk products" means milk, skimmed milk, flavored milk or skimmed milk, cultured skimmed milk, buttermilk, concentrated milk, any mixture of milk or skimmed milk and cream containing less than 10 percent butterfat, and 50 percent of the quantity by weight of any mixture of milk or skimmed milk and cream containing at least 10 percent but less than 16 percent butterfat. The term includes these products in fluid, frozen, fortified, or reconstituted form but does not include sterilized products in hermetically sealed containers and such products as eggnog, yogurt, whey, ice cream mix, ice milk mix, milk shake base mix, and evaporated or condensed milk or skimmed milk, in either plain or sweetened form. Fluid milk products which have been placed in containers for disposition to retail or wholesale outlets are referred to in this part as packaged fluid milk products.

§ 1001.23 Cream.

"Cream" means that portion of milk, containing not less than 16 percent butterfat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term also includes soured cream, frozen cream, fortified cream, reconstituted cream, any mixture of milk or skimmed milk and cream containing 16 percent or more of butterfat, and 50 percent of the quantity by weight of any mixture of milk or skimmed milk and cream containing at least 10 percent but less than 16 percent butterfat.

§ 1001.24 Producer milk.

"Producer milk" means milk which the handler has received from producers. The quantity of milk received by a handler from producers shall include any milk of a producer which was not received at a plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month, and such milk shall be considered as having been received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month.

§ 1001.25 Pool milk.

"Pool milk" means fluid milk products (other than exempt milk) received or disposed of as specified in this section:

(a) Receipts of producer milk;

(b) The following receipts of fluid milk products at pool plants (exclusive of receipts from other pool plants, producer-handlers under any Federal order, exempt distributing plants under any New England Federal order, and receipts from regulated plants under other Federal orders which are classified and priced under the other orders):

(1) Receipts at pool distributing plants from plants located outside the New England states and beyond zone 40;

(2) Receipts at pool plants, other than pool distributing plants, to the extent assigned to Class I milk under § 1001.55 (g), from plants located outside the New England states and beyond zone 40; and

(3) Receipts at pool plants, to the extent assigned to Class I milk under § 1001.55(h), from plants located within one of the New England states or in zone 40 or a nearer zone, exclusive of bulk fluid milk products from distributing plants for unregulated markets;

(c) Receipts of bulk fluid milk products at pool distributing plants, to the extent assigned to classes under § 1001.56 (b), from regulated plants under other Federal orders with individual-handler pools;

(d) Receipts of bulk fluid milk products at pool plants, other than pool distributing plants, to the extent assigned to Class I milk under § 1001.57(h), from regulated plants under other Federal orders with individual-handler pools; and

(e) Route disposition in the marketing area from any processing and packaging plant (except a pool plant, a producer-handler's plant under any Federal order, an exempt distributing plant under

any New England Federal order, or a regulated plant under another Federal order) to the extent of all such disposition in the month which is in excess of a daily average of 300 quarts or of 700 quarts on any day, whichever is greater. In determining the quantity of pool milk under this paragraph, the total quantity of route disposition in the marketing area from the plant first shall be reduced by the quantity of fluid milk products received at the plant during the month which is classified and priced as Class I milk or the equivalent thereof under any marketwide pool Federal order and which is not used to offset route disposition in any other Federal marketing area. The reduction shall be made first in any route disposition which is in excess of 700 quarts on any day.

§ 1001.26 Exempt milk.

"Exempt milk" means:

(a) Milk received at a pool plant in bulk from a nonpool plant to be processed and packaged, for which an equivalent quantity of packaged fluid milk products is returned to the operator of the nonpool plant during the same month, if the receipt of bulk milk and return of packaged fluid milk products occur during an interval in which the facilities of the nonpool plant at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the dealer's control;

(b) Packaged fluid milk products received at a pool plant from a nonpool plant in return for an equivalent quantity of bulk milk moved from a pool plant for processing and packaging during the same month, if the movement of bulk milk and receipt of packaged fluid milk products occur during an interval in which the facilities of the pool plant at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the handler's control;

(c) Milk produced and processed in accordance with the standards of purity and quality for certified milk established by the American Association of Medical Milk Commissions and disposed of as packaged certified milk or packaged certified skimmed milk; and

(d) Milk received at a pool plant in bulk from the dairy farmer who produced it, to the extent of the quantity of any packaged fluid milk products returned to the dairy farmer, if:

(1) The dairy farmer is a state or local government which is not engaged in the route disposition of any of the returned products; and

(2) The dairy farmer has, by written notice to the market administrator and the receiving handler, elected nonproducer status for a period of not less than 12 months beginning with the month in which the election was made and continuing for each subsequent month until canceled in writing, and the election is in effect for the current month.

§ 1001.27 Diverted milk.

"Diverted milk" means milk which a handler reports as having been moved from a dairy farmer's farm to one of his pool plants, but which he caused to be moved from the farm to another plant, if such movement is specifically reported and the conditions of paragraph (a) or (b) of this section have been met. Diverted milk shall be considered to have been received at the pool plant from which it was diverted. Milk moved from a dairy farmer's farm as producer milk under the Greater Boston, Southeastern New England, Springfield, or Worcester orders shall be treated as if it had been moved as producer milk under this part, and any milk moved from that farm as diverted milk under any of those orders shall be treated as if it had been so moved under this part.

(a) The handler caused milk from the farm to be moved to such pool plant on a majority of the delivery days, during the 12 months ending with the current month, on which the handler either caused milk to be moved from the farm as producer milk, or caused milk to be moved as producer milk from the farm by tank truck.

(b) The handler caused the milk to be moved from the farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant during the month in accordance with the preceding provisions of this section.

MARKET ADMINISTRATOR

§ 1001.30 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 1001.31 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate, and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 1001.32 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part. His duties shall include but not be limited to those specified in this section.

(a) Within 30 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, he shall execute and deliver to the Secretary a bond effective as of the date on which he enters upon his duties. The bond shall be conditioned upon the faithful performance of those duties and shall be in an amount and with surety thereon satisfactory to the Secretary.

(b) He shall employe and fix the compensation of any persons necessary to enable him to administer the terms and provisions of this part.

(c) He shall obtain a bond in a reasonable amount, and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator.

(d) He shall pay from the funds provided by § 1001.87 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties except those expenses incurred under § 1001.75.

(e) He shall keep books and records to reflect clearly the transactions provided for in this part and, upon request by the Secretary, surrender them to any other person the Secretary may designate.

(f) He shall submit his books and records to examination by the Secretary and furnish any information and reports requested by the Secretary.

(g) He shall prepare and make available for the benefit of producers, handlers, and consumers, statistics and information concerning the operation of this part.

(h) He shall verify handlers' reports and payments to the extent necessary, by any appropriate means including audit of the handlers' records and, if made available, of the records of any other persons upon whose utilization the classification of butterfat and skim milk depends. If verification discloses that the original classification was incorrect, the market administrator shall make appropriate reclassification of the butterfat and skim milk.

(i) At his discretion and unless otherwise directed by the Secretary, he shall publicly announce (by posting in a conspicuous place in his office and by such other means as he deems appropriate) the name of any handler the value of whose fluid milk products is not included in the computation of the basic blended price because of failure to file reports under § 1001.40 or make payments under § 1001.82.

(j) He shall publicly announce (by posting in a conspicuous place in his office and by such other means as he deems appropriate):

(1) By the 25th day of the month, the Class I price for the following month, as computed under § 1001.60;

(2) By the 5th day of the month, the Class II price and the butterfat differential for the preceding month, as computed under §§ 1001.61 and 1001.71(b), respectively;

(3) By the 12th day of each month, the zone blended prices resulting from the adjustment of the basic blended price for the preceding month, as computed under § 1001.64, by the zone differentials contained in § 1001.62(d); and

(4) By the 25th day of each January, the monthly base Class I percentage factors computed under § 1001.65(a). For each of the months from the effective date of the Massachusetts-Rhode Island order through January 1965, these factors shall be so announced by the 25th day of the month preceding such effective date.

POOL PLANT REQUIREMENTS

§ 1001.35 Distributing plants.

Each processing and packaging plant (other than a producer-handler's plant under any Federal order or a regulated plant under another Federal order) shall be a pool distributing plant in any month in which it meets the conditions specified in this section.

(a) Its total Class I disposition in the month, or in either of the two preceding months, is not less than 40 percent of its total receipts of fluid milk products in the corresponding month.

(b) Its route disposition in the marketing area in the month:

(1) Is not less than 10 percent of its total receipts of fluid milk products;

(2) Exceeds its route disposition in any other Federal marketing area; and

(3) Exceeds 700 quarts on any day or a daily average of 300 quarts.

§ 1001.36 Cooperative association plants located in the marketing area.

Each plant which is located in the marketing area and which is operated by a cooperative association shall be a pool plant in any month in which its route disposition does not exceed 2 percent of its total receipts of fluid milk products.

§ 1001.37 Supply plants.

Each plant (other than a plant described in paragraph (e) of this section) shall be a pool supply plant in any month in which it meets the conditions specified in paragraph (a), and in either paragraph (b), (c), or (d), of this section.

(a) It is a plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled, or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred to stationary equipment or to other vehicles.

(b) It is a plant from which at least 15 percent of its total receipts of milk from dairy farmers' farms is shipped as fluid milk products, other than as diverted milk:

(1) To pool distributing plants; or

(2) To plants to which qualifying shipments may be made under any New England Federal order and a greater quantity of fluid milk products is shipped to pool distributing plants under this order than to the other plants.

(c) For any month of July through November, it is one of a group of plants which meets the conditions specified in this paragraph.

(1) The handler's written request for continuation of pool supply plant status, which the plant held under his operation in the preceding month, is received by the market administrator on or before the 16th day of the month.

(2) The plant does not qualify for pool plant status under another New England Federal order on the basis of shipments of fluid milk products which exceed those made to pool distributing plants under this order, and the group of plants, considered as a unit, meets the shipping requirements specified in paragraph (b) of this section.

(3) To qualify as a pool supply plant under this paragraph in November of any year, the plant, considered individually, shall have met the shipping requirements specified in paragraph (b) of this section in one of the months of July through October of that year.

(d) For any month of December through June, it is a plant which meets the requirements for automatic pool plant status specified in this paragraph. The automatic pool plant status of a plant shall be revoked for any month for which the market administrator has received the handler's written request for revocation on or before the 16th day of that month. In that event, the plant shall not have automatic pool plant status in any subsequent month of the current December through June period.

(1) The plant was a pool supply plant in each of the preceding months of July through November; or

(2) The plant was a pool supply plant under one or another of the New England Federal orders in at least two of the preceding months of July through November and would have been such a plant in all other months in that period had it not been a pool plant under the New York-New Jersey Federal order, and a greater quantity of its receipts from dairy farmers' farms during the July through November period was pooled under this order than under any other New England Federal order.

(e) No plant shall be a pool supply plant in any month in which it is operated as:

(1) A pool distributing plant;

(2) The plant of a producer-handler under any Federal order;

(3) A regulated plant under another Federal order with a marketwide pool, including any plant which meets the requirements for pool supply plant status specified in § 1015.16(b) (3) or (5) of the Connecticut order; or

(4) A plant qualifying for pooling under a Federal order with individual-handler pools on the basis of its route disposition or on the basis of shipments of fluid milk products which exceed the shipments of fluid milk products qualifying the plant for pooling under this order.

(f) Each plant which was a pool supply plant under the Greater Boston, Southeastern New England, Springfield, or Worcester orders during any of the months from July 1964 to the effective date of the Massachusetts-Rhode Island order shall be treated as if it had been a pool supply plant under this part in such months, and each plant which, considered individually, met the shipping requirements under any of those orders in such months shall be treated as if it had met the corresponding shipping requirements under this part in those months.

REPORTS, RECORDS, AND FACILITIES

§ 1001.40 Monthly reports of receipts and utilization.

On or before the 8th day after the end of the month, each handler who operates a pool plant or any other plant from which there is route disposition in the marketing area shall file with the market administrator a report for the month for each such plant. The report shall be in the detail and on forms prescribed by the market administrator and shall show the quantities of butterfat and of skim milk and the total thereof contained in:

(a) Receipts of milk and milk products in the form of;

(1) Producer milk (including the specific quantities of diverted milk and of receipts from the handler's own production);

(2) Pool milk other than producer milk;

(3) Fluid milk products and cream from all other plants; and

(4) Fluid milk products and cream from all other sources (including the quantities of fluid milk products or cream reconstituted from other milk products and the quantities of other milk products used to fortify fluid milk products or cream);

(b) Inventories of fluid milk products and cream at the beginning and at the end of the month; and

(c) The respective quantities of fluid milk products and cream sold, distributed, used, or otherwise disposed of, classified in accordance with the provisions of §§ 1001.47 through 1001.51.

§ 1001.41 Other reports of receipts and utilization.

(a) Within 5 days after the first receipt at his pool plant of fluid milk products during the month from each plant which is neither a pool plant nor a producer-handler's plant under any New England Federal order, each handler shall file with the market administrator a report showing the identity of the operator of the shipping plant, the plant location, the quantities of bulk and packaged fluid milk products received, and such other information respecting the receipt as the market administrator may prescribe.

(b) For any month in which it is claimed that the farm of any dairy farmer from whom he received milk is located in a farm location differential area described in § 1001.72, each handler from whose plant pool milk other than producer milk is moved to a pool plant and each handler with route disposition of pool milk in the marketing area from a nonpool plant shall file with the market administrator a report showing the name, post office address, and farm location of each dairy farmer from whom he received milk at the plant during the month, and the total pounds of milk received from each farm. The report shall be submitted within 10 days after the market administrator's request, made not earlier than the 20th day after the end of the month.

(c) Each handler who does not operate a pool plant, or any other plant with route disposition in the marketing area, shall file with the market administrator reports relating to his receipts and utilization of milk and milk products at the time and in the manner prescribed by the market administrator.

§ 1001.42 Reports regarding individual producers.

(a) Within 20 days after a producer moves from one farm to another, begins or resumes deliveries to a handler's pool plant, or begins to deliver his milk to the handler's plant by tank truck, the handler shall file with the market administrator a report showing the applicable date and the producer's name, post office address, and farm location. The report shall indicate, if known, the plant to which the producer had been delivering prior to beginning or resuming deliveries.

(b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to a handler's pool plant, the handler shall file with the market administrator a report showing the date of the last delivery and the producer's name, post office address, and farm location. The report shall indicate, if known, the reason for the producer's failure to continue deliveries.

(c) Each handler who is not a cooperative association, upon request from any such association, shall furnish it with information with respect to each of its producer members who begins, resumes, or stops deliveries to the handler's pool plant. Such information shall include the applicable date, the producer member's post office address and farm location, and, if known, the plant to which he previously delivered, or the reason for his failure to continue deliveries. In lieu of his providing the information directly to the association, the handler may authorize the market administrator to furnish the association with such information, derived from the handler's reports and records.

§ 1001.43 Notices to producers.

Each handler shall furnish each producer from whom he receives milk with information regarding the daily weight and composite butterfat test of the producer's milk, as follows:

(a) Within 3 days after each day on which he receives milk from the producer, the handler shall give the producer written notice of the daily quantity so received; and

(b) Within 7 days after the end of any sampling period for which the composite butterfat test of the producer's milk was determined, the handler shall give the producer written notice of such composite test.

§ 1001.44 Records and facilities.

(a) Each handler shall maintain detailed and summary records showing the quantities of butterfat and of skim milk and the total thereof contained in all receipts, movements, and disposition of milk and milk products during each month, and inventories of milk and milk products at the beginning and end of the month.

(b) For the purpose of ascertaining the correctness of any report made to the market administrator as required by this part, or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(1) Verify the information contained in the reports submitted in accordance with this part;

(2) Verify the payments to producers, including any deductions, and the disbursement of money so deducted;

(3) Weigh, sample, and test milk and milk products; and

(4) Make whatever examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

(c) Each handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for the month, which shall show for each producer:

(1) The daily and total pounds of milk delivered and its average butterfat test; and

(2) The net amount of the handler's payments to the producer, with the prices, deductions, and charges involved.

§ 1001.45 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which the books and records pertain. If, within the three-year period, the market administrator notifies the handler in writing that the retention of the books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain the books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 1001.47 Classification of milk and milk products—in general.

All butterfat and skim milk in milk and milk products required to be reported under § 1001.40 shall be classified as Class I milk or Class II milk under §§ 1001.48 through 1001.51.

§ 1001.48 Class I milk.

Subject to the provisions of §§ 1001.50 and 1001.51, Class I milk shall be all butterfat and skim milk (including that used to produce concentrated milk):

(a) Disposed of in the form of fluid milk products other than as specified in § 1001.49; or

(b) Not established as Class II milk under § 1001.49.

§ 1001.49 Class II milk.

Subject to the provisions of §§ 1001.50 and 1001.51, Class II milk shall be all butterfat and skim milk for which the handler who first receives the butterfat and skim milk proves that the butterfat and skim milk were:

(a) Disposed of, or in inventory at the end of the month, in the form of cream;

(b) Used to produce milk products other than fluid milk products or cream;

(c) Disposed of in fluid milk products for livestock feed, or disposed of in bulk fluid milk products to manufacturing establishments such as bakeries, candy factories, soup factories, and similar establishments at which the fluid milk products were used in the manufacture of food products other than milk products;

(d) Contained in fluid milk products in inventory at the end of the month to the extent not classified as Class I milk under § 1001.51;

(e) Contained in fluid milk products dumped or discarded;

(f) Contained in fluid milk products destroyed or lost under extraordinary circumstances; and

(g) In shrinkage not in excess of 2 percent of the respective quantities of butterfat and skim milk contained in receipts of fluid milk products and cream, exclusive of diverted milk and inventory at the beginning of the month.

§ 1001.50 Classification of fluid milk products moved to other plants.

Butterfat and skim milk in fluid milk products moved from a pool plant to any other plant shall be classified as follows:

(a) As Class I milk if moved as packaged fluid milk products to any other plant;

(b) As Class I milk if moved to the plant of a producer-handler under any Federal order;

(c) In the class to which assigned under § 1001.57 if moved as bulk fluid milk products to any other pool plant;

(d) In the class to which assigned under the other order if moved as bulk fluid milk products to a regulated plant under another Federal order;

(e) As Class I milk, to the extent of the total quantity of the same form of fluid milk products so moved which is utilized as Class I milk at the plant to which transferred, if moved as bulk fluid milk products to any plant other than a plant to which movements of bulk fluid milk products are subject to classification under the preceding paragraphs of this section, and as Class II milk to the extent of any remainder; and

(f) As Class I milk if moved as bulk fluid milk products to any plant other than a pool plant or a regulated plant under another Federal order and thence to another plant, not regulated under a Federal order, located outside the New England States and New York State.

§ 1001.51 Classification of inventories.

All butterfat and skim milk contained in inventories of fluid milk products at the end of each month shall be classified as Class I milk pending final disposition of the fluid milk products, if the handler requests such classification and either receives no milk from producers or does not claim classification as Class II milk of any fluid milk products.

ASSIGNMENT OF RECEIPTS

§ 1001.53 Assignment of receipts to classes—in general.

(a) The total quantities of butterfat and of skim milk received at each pool plant during the month (including those

quantities in inventory at the beginning of the month) shall be assigned separately, in the manner and sequence provided in §§ 1001.54 through 1001.58, to the respective quantities of butterfat and of skim milk classified as Class I milk and Class II milk under §§ 1001.47 through 1001.51.

(b) Except as provided in § 1001.56, whenever receipts have been assigned under §§ 1001.54 through 1001.58 to the remaining pounds in a class, all remaining receipts shall be assigned to the other class.

(c) If receipts from more than one plant are to be assigned under a paragraph in § 1001.55 or § 1001.57, or under § 1001.58, the receipts shall be assigned in sequence according to the zone locations of the plants, beginning with the plant in the nearest zone to Boston for assignments to Class I milk and beginning with the plant in the most distant zone from Boston for assignments to Class II milk.

§ 1001.54 Initial assignments to Class I milk.

(a) Assign to Class I milk the quantities received in exempt milk.

(b) Assign to Class I milk the quantities in packaged fluid milk products received from regulated plants under other Federal orders, if the fluid milk products received are classified and priced under the other orders as Class I milk or the equivalent thereof or in accordance with their assignment under this part.

(c) Assign to Class I milk the quantities in packaged fluid milk products received from other pool plants.

(d) Assign to Class I milk the quantities in fluid milk products in inventory at the beginning of the month which were classified as Class I milk in the preceding month.

§ 1001.55 Initial assignments to Class II milk.

(a) Assign to Class II milk the quantities in fluid milk products or cream reconstituted from other milk products, and the quantities in other milk products used to fortify fluid milk products or cream. If the quantity of any reconstituted product is not known, the quantities assigned shall be the quantity of butterfat used in the reconstitution and the quantity of skim milk required to produce the milk products so used. Any unaccounted-for plain condensed milk or skimmed milk, dry whole milk, or nonfat dry milk shall be considered to have been used in the reconstitution of fluid milk products.

(b) Assign to Class II milk the quantities in cream in inventory at the beginning of the month and received during the month.

(c) Assign to Class II milk the quantities in fluid milk products (other than exempt milk) received from a local or state government which has elected nonproducer status for the month under § 1001.26(d).

(d) Assign to Class II milk the quantities in fluid milk products in inventory at the beginning of the month not assigned under § 1001.54(d).

(e) Assign to Class II milk the quantities in fluid milk products received from producer-handlers under any Federal order and from exempt distributing plants under any New England Federal order, and in milk products other than fluid milk products from dairy farmers.

(f) Assign to Class II milk the quantities in bulk fluid milk products received from distributing plants for unregulated markets located within one of the New England States or in zone 40 or a nearer zone.

(g) At pool plants other than pool distributing plants, assign to Class II milk the quantities in fluid milk products received from plants located outside the New England States and beyond zone 40, if the fluid milk products received are not classified and priced under any Federal order.

(h) Assign to Class II milk the quantities in fluid milk products received from plants located within one of the New England States or in zone 40 or a nearer zone, except receipts assigned under paragraph (f) of this section and receipts which are classified and priced under any Federal order.

§ 1001.56 Special assignments to classes.

(a) At pool distributing plants, assign to Class II milk, to the extent of the respective remaining pounds in that class, the quantities in bulk fluid milk products received from each regulated plant under another Federal order, if the operators of the shipping plant and of the receiving plant have both requested such Class II classification and assignment.

(b) At pool distributing plants, assign to Class I milk and Class II milk, in proportion to the respective remaining pounds in each class at all of the handler's pool plants, the quantities in bulk fluid milk products received from each regulated plant under another Federal order (except receipts assigned under paragraph (a) of this section) if such receipts are classified and priced under the other order as Class I milk or the equivalent thereof or in accordance with their assignment under this part.

(c) If the quantity to be assigned to a class under paragraph (b) of this section exceeds the respective quantity remaining in that class at the pool distributing plant, the remaining quantity shall be increased to the quantity to be assigned to that class and the respective remaining quantity in that class at the handler's other pool plants shall be decreased to the same extent, in sequence beginning with the plant in the zone nearest to Boston. The respective quantity remaining in the other class thereupon shall be decreased correspondingly at the pool distributing plant and shall be increased correspondingly at those other pool plants involved in the adjustment.

(d) The quantities assigned under this section shall be limited to the excess of the receipts from a plant over the respective quantities in bulk fluid milk products moved to that plant from the pool distributing plant.

§ 1001.57 Additional assignments to Class I milk.

(a) At pool plants located outside the nearby plant zone, assign to Class I milk the quantities received in producer milk to the extent of the respective quantities in route disposition in the States of Maine, New Hampshire, and Vermont and in Class I milk moved to nonpool plants from which no fluid milk products were disposed of as Class I milk, either directly or indirectly, outside those States.

(b) Assign to Class I milk the quantities in bulk fluid milk products received from the handler's pool plants located in the nearby plant zone.

(c) Assign to Class I milk the quantities received from other handlers' pool plants in bulk fluid milk products for which classification as Class II milk has not been requested by both handlers.

(d) Assign to Class I milk the quantities received in producer milk not assigned under paragraph (a) of this section.

(e) Assign to Class I milk the quantities received in bulk fluid milk products from the handler's pool plants located outside the nearby plant zone.

(f) At pool distributing plants, assign to Class I milk the quantities received from plants located outside the New England States and beyond zone 40 in pool milk other than producer milk, if the fluid milk products received are not classified and priced under any Federal order.

(g) Assign to Class I milk the quantities received from other handlers' pool plants in bulk fluid milk products for which classification as Class II milk has been requested by both handlers.

(h) At pool plants other than pool distributing plants, assign to Class I milk the quantities in bulk fluid milk products received from regulated plants under other Federal orders, if such receipts are classified and priced under the other order as Class I milk or the equivalent thereof or in accordance with their assignment under this part.

§ 1001.58 Additional assignment to Class II milk.

Assign to Class II milk the quantities received from regulated plants under other Federal orders in fluid milk products not previously assigned to classes under §§ 1001.54 through 1001.57.

MINIMUM PRICES

§ 1001.60 Class I price.

The Class I price per hundredweight of milk containing 3.5 percent butterfat, at plants located in zone 21, shall be computed for each month as specified in this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday the latest figures available on the next succeeding workday shall be used.

(a) Compute an economic index, with the year 1958 as the base period, as follows:

(1) Calculate a United States wholesale commodity price index by dividing the monthly wholesale price index for all commodities (as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1957–59 as the base period) by 1.0025.

(2) Calculate a New England consumer income index by multiplying the current annual rate of per capita disposable personal income in the United States (based upon the quarterly figure released by the United States Department of Commerce or the Council of Economic Advisers to the President) by the New England adjustment percentage and dividing the result by 20.50. The New England adjustment percentage shall be the current percentage relationship of per capita personal income in New England to per capita personal income in the United States (using data on per capita personal income by States and regions as published by the United States Department of Commerce).

(3) Calculate a New England dairy ration index by dividing the monthly average price paid by farmers in the New England region for 100 pounds of mixed dairy feed containing less than 29 percent protein (as reported by the United States Department of Agriculture) by 0.04041.

(4) Calculate a New England farm wage rate index by dividing the weighted average farm wage rate for the New England region by 1.9833. The weighted average farm wage rate for the New England region shall be the average of the farm wage rates for the New England region (as reported by the United States Department of Agriculture) weighted by the factors indicated in the following table.

Rate	Weighting factor
Per month with board and room	1.00
Per month with house	1.00
Per week with board and room	4.33
Per week without board or room	4.33
Per day without board or room	26.00

(5) Calculate a New England grain-labor cost index by multiplying the New England dairy ration index by 0.6 and the New England farm wage rate index by 0.4, and combining the two results.

(6) The economic index shall be the result of dividing by seven the sum of three times the United States wholesale commodity price index, the New England consumer income index, and three times the New England grain-labor cost index.

(b) Compute an economic index price as follows:

(1) Multiply the economic index by $0.0557, expressing the result to the nearest mill.

(2) Divide the Class I–A price for the month computed under the New York-New Jersey Federal order, applicable to milk containing 3.5 percent butterfat received at plants located in the 201–210-mile freight zone, by the product of the utilization adjustment percentage and the seasonal adjustment factor which entered into the computation of that price, expressing the result to the nearest mill.

(3) The economic index price shall be the price computed in subparagraph (1) of this paragraph, except that its deviation from the result obtained in subparagraph (2) of this paragraph shall be limited to $0.05.

(c) Compute a supply-demand adjustment factor (using quantities announced in the statistical reports of the respective market administrators for the New England Federal orders for the second, third, and fourth months preceding the month for which the price is being computed) as follows:

(1) For each of the three months, determine the total Class I producer milk and the total producer milk for the New England Federal order markets by combining the respective totals for the individual markets.

(2) For each of the three months, divide the total Class I producer milk for the New England Federal order markets by the base Class I percentage factor for the same month as determined under § 1001.65(a). The result shall be the New England base supply for that month.

(3) For each of the three months, express the total producer milk for the New England Federal order markets as a percentage of the New England base supply for the same month. The simple average of the three resulting percentages shall be the percentage of base supply.

(4) The supply-demand adjustment factor shall be the figure in the following table opposite the bracket within which the percentage of base supply falls. When the percentage of base supply falls in an interval between brackets, the supply-demand adjustment factor shall be the figure shown for the next higher bracket if the factor for the previous month was based on a bracket higher than such interval, and shall be the figure for the next lower bracket if the factor for the previous month was based on a bracket lower than such interval.

Percentage of base supply: [1]	Supply-demand adjustment factor
90.5–91.5	1.06
92.0–93.0	1.05
93.5–94.5	1.04
95.0–96.0	1.03
96.5–97.5	1.02
98.0–99.0	1.01
99.5–100.5	1.00
101.0–102.0	.99
102.5–103.5	.98
104.0–105.0	.97
105.5–106.5	.96
107.0–108.0	.95
108.5–109.5	.94

[1] If the percentage of base supply calculated according to subparagraph (3) of this paragraph falls outside the extremes shown in this column, the supply-demand adjustment factor shall be determined by extending the table at the indicated rate of extension.

(d) The seasonal adjustment factor shall be the factor listed below for the month for which the price is being computed.

Month:	Seasonal adjustment factor
January and February	1.04
March	1.00
April	.92
May and June	.88
July	.96
August	1.00
September	1.04
October, November, and December	1.08

(e) Multiply the economic index price determined under paragraph (b) of this section by the product of the supply-demand adjustment factor determined under paragraph (c) of this section and the seasonal adjustment factor determined under paragraph (d) of this section. The Class I price shall be the price set forth in column 3 of the following table opposite the range within which the result of this computation falls.

Range		Class I price
At least—	But less than—	
$4.72 [1]	$4.94	$4.83
$4.94	5.16	5.05
$5.16	5.38	5.27
$5.38	5.60	5.49
$5.60	5.82	5.71
$5.82	6.04	5.93
$6.04	6.26	6.15
$6.26	6.48	6.37
$6.48	6.70	6.59
$6.70	[1] 6.92	6.81

[1] If the result of the computation specified in this paragraph is less than $4.72 or is $6.92 or more, the Class I price shall be determined by extending the table at the indicated rate of extension.

(f) Notwithstanding the provisions of the preceding paragraphs of this section, the Class I price for November or December of each year shall not be lower than the Class I price for the immediately preceding month.

§ 1001.61 Class II price.

The Class II price per hundredweight of milk containing 3.5 percent butterfat, at plants located in zone 21, shall be computed for each month as specified in this section.

(a) Adjust the average price for milk for manufacturing purposes, f.o.b. plants United States, as reported by the United States Department of Agriculture on a preliminary basis for the month, by subtracting for each one-tenth of one percent of average butterfat content above 3.5 percent, or adding for each one-tenth of one percent of average butterfat content below 3.5 percent, an amount per hundredweight which shall be calculated by multiplying by 0.125 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported by the United States Department of Agriculture for the period beginning with the 16th day of the preceding month and ending with the 15th day of the current month.

(b) Adjust the result obtained in paragraph (a) of this section by the amount shown below for the applicable month:

Month:	Amount
January	+$0.08
February	+.07
March	.00
April	−.04
May	−.07
June	−.06
July	+.08
August	+.15
September	+.11
October	+.11
November	+.11
December	+.11

§ 1001.62 Zone differentials.

The class prices and blended prices computed under §§ 1001.60, 1001.61, and 1001.64 shall be subject to zone differentials based upon the zone location of the plant at which producer milk is received and of the plant from which pool milk other than producer milk is received or distributed, as specified in this section.

(a) Each plant which is located in the marketing area, in either farm location differential area specified in § 1001.72, or in the State of Connecticut, shall be in the "nearby plant" zone.

(b) The zone location of each plant which is outside the "nearby plant" zone shall be based upon its highway mileage distance to Boston, as determined by use of Mileage Guide No. 7, and supplements to and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Washington, D.C. The mileages used shall be those shown between designated key points in the mileage charts, and between named points on the appropriate State road maps, as published in the mileage guide. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located.

(c) The distance for each plant shall be the mileage between Boston and the named point nearest to the plant, as shown in the mileage charts. If that named point is not listed in the mileage charts, the distance for the plant shall be the lowest mileage distance between Boston and that named point, computed as follows:

(1) Determine from the charts the mileage between Boston and each of the three key points nearest to the named point which are nearer to Boston than the named point.

(2) For each of these key points, add to the result in subparagraph (1) of this paragraph the mileage between the key point and the named point, measured to the greatest possible extent over roads designated as paved all-weather roads.

(d) The zone differentials for each plant shall be those applicable to its zone location as shown in the following table.

DIFFERENTIALS FOR DETERMINATION OF ZONE PRICES

Distance to Boston (miles)	Plant location zone	Class I and blended price differentials (cents per hundredweight)	Class II price differentials (cents per hundredweight)
Various	Nearby plant	+47.0	+5.8
81 to 90	9	+14.4	+3.2
91 to 100	10	+13.2	+3.0
101 to 110	11	+12.0	+2.9
111 to 120	12	+10.8	+2.6
121 to 130	13	+9.6	+2.4
131 to 140	14	+8.4	+2.1
141 to 150	15	+7.2	+1.8
151 to 160	16	+6.0	+1.3
161 to 170	17	+4.8	+1.2
171 to 180	18	+3.6	+.6
181 to 190	19	+2.4	+.4
191 to 200	20	+1.2	+.1
201 to 210	21	.0	.0
211 to 220	22	−1.0	−.6
221 to 230	23	−2.0	−.7
231 to 240	24	−3.0	−.9
241 to 250	25	−4.0	−.9
251 to 260	26	−5.0	−1.2
261 to 270	27	−6.0	−1.3
271 to 280	28	−7.0	−1.5
281 to 290	29	−8.0	−1.6
291 to 300	30	−9.0	−1.8
301 to 310	31	−10.0	−2.3
311 to 320	32	−11.0	−2.4
321 to 330	33	−12.0	−2.5
331 to 340	34	−13.0	−2.8
341 to 350	35	−14.0	−2.8
351 to 360	36	−15.0	−3.0
361 to 370	37	−16.0	−3.1
371 to 380	38	−17.0	−3.3
381 to 390	39	−18.0	−3.4
391 to 400	40	−19.0	−3.5
401 and over	41 and over	(1)	−3.5

1 Class I and blended price differentials applicable to plants located more than 400 miles from Boston shall be obtained by extending the table at the rate of 1 cent for each additional 10 miles except that in no event shall the Class I or blended price at any zone be less than the Class II price for the month for plants in the same zone.

(e) Notwithstanding the provisions of paragraphs (b) and (c) of this section, if the lowest highway mileage distance between Boston and a named point has been determined and used as the basis for a plant zone location by the market administrator prior to the effective date of this paragraph, the lowest highway mileage distance between Boston and that named point shall be determined by the method described in this paragraph until Mileage Guide No. 7 is canceled. The distance shall be determined by use of the appropriate State maps contained in Mileage Guide No. 7, and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Washington, D.C., and shall be the lowest highway mileage between Boston and the named point on the map, over roads designated thereon as paved, all-weather roads. In the event that the named point is not located on a through, paved, all-weather road, such other roads shall be used to reach a through, paved, all-weather road as will result in the lowest highway mileage to Boston, except that such other roads shall not be used for a distance of more than 15 miles if it is otherwise possible to connect with a through, paved, all-weather road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located.

§ 1001.63 Value of fluid milk products at plants.

For each month, the market administrator shall compute, as specified in this section, the value of fluid milk products at each plant other than that of a producer-handler under any Federal order. The prices used shall be those for the zone location of the plant for which the value is being computed, except that under paragraphs (a)(2), (b)(2), and (e)(2) of this section the prices used shall be the prices for the zone locations of the plants from which the respective quantities of fluid milk products were received.

(a) Multiply by the applicable class prices the quantities of:

(1) Producer milk assigned under § 1001.57 (a) and (d); and

(2) Pool milk other than producer milk, assigned under §§ 1001.55 (g) and (h), 1001.56, and 1001.57 (f) and (h).

(b) Multiply by the applicable Class I prices the quantities of:

(1) Product assigned to Class I milk under § 1001.54(d) and § 1001.55 (a) through (d); and

(2) Product assigned to Class I milk under §§ 1001.55 (e) and (f), and 1001.58.

(c) If the total quantity of butterfat or of skim milk classified in Class I milk or Class II milk under §§ 1001.47 through 1001.51 exceeds the respective total quantity assigned to that class under §§ 1001.53 through 1001.58, multiply the excess (overage) by the applicable class price, adjusted by the butterfat differential.

(d) Multiply by the applicable Class I price the quantity of pool milk distributed as route disposition in the marketing area from the handler's nonpool plant.

(e) Multiply by the applicable Class II prices the quantities of:

(1) Product assigned to Class I milk under § 1001.55 (a) through (c); and

(2) Product assigned to Class I milk under §§ 1001.55 (e) and (f), and 1001.58.

(f) Multiply by the applicable Class I price for the preceding month the product assigned to Class I milk under § 1001.54(d).

(g) Multiply by the applicable Class II price for the preceding month the product assigned to Class I milk under § 1001.55(d).

(h) Add together the amounts obtained under paragraphs (a) through (d) of this section and subtract therefrom the sum of the amounts obtained under paragraphs (e) through (g) of this section. The remainder shall be the value of fluid milk products at the plant.

§ 1001.64 Basic blended price.

The basic blended price per hundredweight of pool milk containing 3.5 percent butterfat, applicable to plants located in Zone 21, shall be computed for each month as specified in this section.

(a) Combine into one total the respective values of fluid milk products computed under § 1001.63 for each plant operated by a handler from whom the market administrator has received at his office, prior to the 11th day after the end of the month, the reports for the month prescribed in § 1001.40 and the payment for the preceding month required under § 1001.82(a) or the corresponding provisions of the Boston, Southeastern New England, Springfield, or Worcester orders.

(b) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable under §§ 1001.62, 1001.72, and 1001.81 (a)(3).

(c) Add the amount of the unobligated balance of the producer settlement fund as at the close of business on the 10th day after the end of the month.

(d) Divide the resulting amount by the total hundredweight of pool milk for which a value is included under paragraph (a) of this section.

(e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in the producer settlement fund.

§ 1001.65 Factors used in formulas.

(a) The base Class I percentage factors to be used in the computation of the Class I price under § 1001.60 for each of the 12 months beginning with February of each year shall be computed on or before January 25 of that year as specified in this paragraph. For the months from the effective date of the Massachusetts-Rhode Island order through January 1965, these factors shall be computed on or before the 25th day of the month prior to such effective date, using the most recent statistical reports of the market administrators for the New England Federal orders which are then available.

(1) For each month of the three preceding years and for December of the fourth preceding year (using the most recent statistical reports of the market administrators for the New England Federal orders) compute the daily average of the total Class I producer milk under all the New England Federal orders and the daily average of the total receipts from producers under all the New England Federal orders.

(2) For each of the two series of daily averages, using the median link-relative method, compute a seasonal index for each month, rounded to two decimal places.

(3) For each month, multiply the seasonal index of Class I producer milk by .6812 and divide the product by the seasonal index of receipts from producers for the same month. The result, rounded to one decimal place, shall be the base Class I percentage factor for the month.

(b) If for any reason a price, index, or wage rate specified in this part for use in computing class prices or for other purposes is not reported or published in the manner described in this part, the market administrator shall use one determined by the Secretary to be equivalent to the factor which is specified.

PAYMENTS—GENERAL

§ 1001.70 Payments to producers.

(a) On or before the 5th day after the end of the month, each handler shall pay each producer for the approximate value of milk received from him during the first 15 days of the month. This payment shall be at a rate not less than the applicable zone Class II price for the month.

(b) On or before the 20th day after the end of the month, each handler shall make final payment to each producer for the total value of milk received from him during the month at not less than the basic blended price per hundredweight computed under § 1001.64, adjusted by the zone, butterfat, and farm location differentials applicable under §§ 1001.62, 1001.71, and 1001.72, minus the amount of the payment made to the producer under paragraph (a) of this section.

(c) If the handler's net payment to a producer is for an amount less than the total amount due the producer under this section, the burden shall rest upon the handler to prove to the market administrator that each deduction from the total amount due is properly authorized, and properly chargeable to the producer.

(d) In making payments to producers under paragraph (b) of this section, the handler may use the simple average of the butterfat tests of semimonthly composite samples of the milk unless the difference between the semimonthly tests is more than two points (0.2%) or the quantity of milk received from the producer in either semimonthly period is as much as three times as large as the quantity received from him in the other semimonthly period.

§ 1001.71 Butterfat differential.

(a) In making the payments to producers required under § 1001.70, each handler shall add for each one-tenth of one percent of average butterfat content above 3.5 percent, or may deduct for each one-tenth of one percent of average butterfat content below 3.5 percent, as a butterfat differential, an amount per hundredweight which shall be computed by the market administrator under paragraph (b) of this section.

(b) Multiply by 1.20 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported by the United States Department of Agriculture for the period beginning with the 16th day of the preceding month and ending with the 15th day of the current month, and divide the result by 10.

§ 1001.72 Farm location differentials.

In making the payments to producers required under § 1001.70, each handler shall add any applicable farm location differential specified in this section.

(a) With respect to milk received from a producer whose farm is located within any of the places specified in this paragraph, the differential shall be 46 cents per hundredweight, unless the addition of 46 cents gives a result greater than the Class I price determined under §§ 1001.60 and 1001.62 which is effective at the plant at which the milk is received. In that event there shall be added a rate which will produce that price.

CONNECTICUT

All of the State of Connecticut east of the Connecticut River and the towns of:

Granby. Suffield.

MAINE

The towns of:

Eliot. Kittery.

MASSACHUSETTS

All counties other than Berkshire County.

NEW HAMPSHIRE

Rockingham County, and the following cities and towns:

Allenstown.
Amherst.
Barrington.
Bedford.
Bow.
Brookline.
Chichester.
Deering.
Dover.
Durham.
Epsom.
Francestown.
Goffstown.
Greenfield.
Greenville.
Hinsdale.
Hollis.
Hooksett.
Hudson.
Lee.
Litchfield.
Lyndeborough.
Madbury.
Manchester.
Mason.
Merrimack.
Milford.
Mount Vernon.
Nashua.
New Boston.
New Ipswich.
Pelham.
Pembroke.
Pittsfield.
Rochester.
Rollinsford.
Strafford.
Temple.
Weare.
Wilton.
Winchester.

RHODE ISLAND

All of the State of Rhode Island.

VERMONT

The towns of:

Guilford.
Halifax.
Readsboro.
Vernon.
Whitingham.

(b) With respect to milk received from a producer whose farm is located within any of the following cities and towns, the differential shall be 23 cents per hundredweight, unless the addition of 23 cents gives a result greater than the Class I price determined under §§ 1001.60 and 1001.62 which is effective at the plant at which the milk is received. In that event there shall be added a rate which will produce that price.

MAINE

Berwick.
Kennebunk.
Kennebunkport.
Lebanon.
Lyman.
North Berwick.
Sanford.
South Berwick.
Wells.
York.

MASSACHUSETTS

Becket.
Florida.
Hinsdale.
Otis.
Peru.
Sandisfield.
Savoy.
Washington.
Windsor.

NEW HAMPSHIRE

Antrim.
Barnstead.
Bennington.
Boscawen.
Bradford.
Canterbury.
Chesterfield.
Concord.
Dublin.
Dunbarton.
Farmington.
Fitzwilliam.
Gilmanton.
Gilsum.
Hancock.
Harrisville.
Henniker.
Hillsborough.
Hopkinton.
Jaffrey.
Keene.
Loudon.
Marlborough.
Middleton.
Milton.
Nelson.
Northfield.
Peterborough.
Richmond.
Rindge.
Roxbury.
Sharon.
Somersworth.
Stoddard.
Sullivan.
Surry.
Swanzey.
Troy.
Webster.
Westmoreland.
Windsor.

VERMONT

Brattleboro.
Brookline.
Dover.
Dummerston.
Marlboro.
Newfane.
Putney.
Wilmington.

§ 1001.73 Statements to producers.

In making the payments to producers required under § 1001.70, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and average butterfat test of milk received from the producer;

(c) The minimum rate or rates at which payment to the producer is required under § 1001.70;

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 1001.75 and 1001.76, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

§ 1001.74 Adjustment of payments to producers.

Whenever the market administrator's verification of a handler's payments to producers discloses payment to a producer of an amount less than is required by § 1001.70, the handler shall make payment of the balance due the producer not later than the 20th day after the end of the month in which the handler is notified of the deficiency.

§ 1001.75 Marketing service deductions.

(a) In making the payments required by § 1001.70 to producers, other than himself and any producer who is a member of a cooperative association which the Secretary determines is performing the services specified in this section, each handler shall deduct 3 cents per hundredweight, or such lesser rate as the Secretary shall determine to be sufficient, for marketing services. The handler shall pay the amount deducted to the market administrator on or before the 18th day after the end of the month.

(b) The market administrator shall expend amounts received under paragraph (a) of this section only in providing for market information to such producers and for verification of weights, samples, and tests of milk received from them. The market administrator may contract with a cooperative association for the furnishing of the whole or any part of these services.

§ 1001.76 Payments to members of cooperative associations.

(a) Each cooperative association may file with a handler who is not a cooperative association a claim either for the payments which the handler is required to make to the association's producer members under § 1001.70 or for authorized deductions from such payments. The claim shall contain a list of the producers to whom the payments are due or to whom the deductions apply, an agreement to indemnify the handler in the making of such payments or deductions, and a certification that the association has, with each producer listed, an unterminated membership contract authorizing the payment or deduction.

(b) The handler shall withhold from the association's producer members the payments or the deductions specified in paragraph (a) of this section in accordance with the association's claim. He shall pay the amounts withheld to the association on or before the dates on which such amounts otherwise would have been due to the producer members under § 1001.70.

(c) For each producer member from whom payment was withheld, the handler shall furnish the association a supporting statement showing the information required to be furnished to the producer under § 1001.73. For each producer member from whom a deduction is made under this section, the handler shall furnish the association a statement showing the pounds of milk received.

PAYMENTS—PRODUCER SETTLEMENT FUND

§ 1001.80 Producer settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer settlement fund". He shall deposit into the fund all amounts received from handlers under §§ 1001.82, 1001.83, and 1001.84. He shall pay from the fund all amounts due handlers under §§ 1001.82, 1001.83, and 1001.84, subject to his right to offset any amounts due from the handler under these sections.

§ 1001.81 Handlers' producer settlement fund debits and credits.

On or before the 15th day after the end of the month, the market administrator shall render a statement to each handler showing the amount of the handler's producer settlement fund debit or credit, as calculated in this section.

(a) The handler's producer settlement fund debit or credit for each of his plants shall be computed as specified in this paragraph.

(1) Multiply the quantities of pool milk by the basic blended price computed under § 1001.64 adjusted by any zone differential applicable under § 1001.62.

(2) Multiply the quantities of producer milk which are subject to farm location differentials under § 1001.72 (a) and (b) by the respective rates applicable under those paragraphs.

(3) With respect to any nonpool plant from which pool milk other than producer milk was received or distributed, divide the respective quantities of milk received at the plant directly from dairy farmers' farms located in the farm location differential areas described in § 1001.72 (a) and (b) by the total receipts of fluid milk products at the plant, multiply by 100, and apply the resulting percentages to the total quantity of pool milk received or distributed from the plant. Multiply each resulting quantity by the respective farm location differential rate specified in § 1001.72 (a) or (b). Until such time as full information relative to all receipts at the plant, including the respective quantities of milk received directly from dairy farmers' farms in each farm location differential area, is submitted to the market administrator, it shall be considered that none of the farms from which milk was received at the plant is located in a farm location differential area.

(4) Combine the values obtained under subparagraphs (1), (2), and (3) of this paragraph.

(5) If the value of the plant's fluid milk products as determined under § 1001.63 is greater than the result obtained under subparagraph (4) of this paragraph, the difference shall be the handler's producer settlement fund debit for the plant.

(6) If the value of the plant's fluid milk products as determined under § 1001.63 is less than the result obtained under subparagraph (4) of this paragraph, the difference shall be the handler's producer settlement fund credit for the plant.

(b) If the handler operates more than one plant, his producer settlement fund debit or credit shall be the net of the producer settlement fund debits and credits as computed for all of his plants under paragraph (a) of this section.

§ 1001.82 Payments to and from the producer settlement fund.

(a) On or before the 18th day after the end of the month, each handler shall make payment to the market administrator of the amount of the handler's producer settlement fund debit for the month as determined under § 1001.81.

(b) On or before the 20th day after the end of the month, the market administrator shall make payment to each handler of the amount of the handler's producer settlement fund credit for the month as determined under § 1001.81.

§ 1001.83 Adjustment of errors in producer settlement fund payments.

Whenever the market administrator's verification of reports or payments of any handler discloses an error in producer settlement fund payments made under § 1001.82, the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Adjustment charge bills issued during the period beginning with the 11th day of the prior month and ending with the 10th day of the current month shall be payable by the handler to the market administrator on or before the 18th day of the current month. Adjustment credits issued during that period shall be payable by the market administrator to the handler on or before the 20th day of the current month.

§ 1001.84 Adjustment of overdue producer settlement fund accounts.

Any producer settlement fund account balance due from or to a handler under §§ 1001.82, 1001.83, or 1001.84, for which remittance has not been received in or paid from the market administrator's office by the close of business on the 20th day of any month, shall be increased one-half of one percent effective the following day. Any remittance received by the market administrator after the 20th day of any month in an envelope which is postmarked not later than the 18th day of the month shall be considered to have been received by the 20th day of that month.

ADMINISTRATION EXPENSE

§ 1001.87 Payment of administration expense.

On or before the 18th day after the end of the month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 4 cents per hundredweight, or such lesser rate as the Secretary may prescribe. The payment shall apply to all of a handler's receipts at pool plants during the month of fluid milk products from all sources, except receipts from pool plants, receipts from regulated plants under other Federal orders if such receipts were subject to an administration expense assessment under the other order, and receipts of exempt milk processed at plants other than pool plants. The payment shall also apply to the quantity of pool milk distributed as route disposition in the marketing area from a handler's nonpool plant.

MISCELLANEOUS PROVISIONS

§ 1001.90 Effective time.

The provisions of this part, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated under § 1001.91.

§ 1001.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part, in any event, shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1001.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 1001.93 Liquidation.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, if so directed by the Secretary, shall liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected under the provisions of this part, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1001.94 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part, except as provided in paragraphs (b) and (c) of this section, shall terminate two years after the last day of the month during which the market administrator received the handler's utilization report on the milk involved in the obligation, unless within the two-year period the market administrator notifies the handler in writing that the money is due and payable. Service of the notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of the producer or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator, within the two-year period provided for in paragraph (a) of this section, may notify the handler in writing of the failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to the obligation shall not begin to run until the first day of the month following the month during which all the books and records pertaining to the obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud, or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which the handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on the payment is claimed, unless the handler, within the applicable period of time, files a petition under section 8c(15)(A) of the Act, claiming the money.

§ 1001.95 Agents.

The Secretary, by designation in writing, may name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1001.96 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of such provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Effective date: October 1, 1964.

Signed at Washington, D.C., on August 24, 1964.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 64-8709; Filed, Aug. 26, 1964; 8:49 a.m.]

[Milk Order 15]

PART 1015—MILK IN CONNECTICUT MARKETING AREA

Subpart—Order Regulating Handling

AUTHORITY: The provisions of this Part 1015 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1015.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Connecticut marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Connecticut marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order as amended and as hereby amended, as follows:

GENERAL DEFINITIONS

§ 1015.1 Act.

"Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 1015.2 Connecticut marketing area.

"Connecticut marketing area", referred to in this part as the "marketing area", means all territory within the State of Connecticut, together with all waterfront facilities connected therewith and craft moored thereat, and all territory therein occupied by government (municipal, State or Federal) installations, institutions or other establishments.

§ 1015.3 Route disposition.

"Route disposition" means distribution of Class I milk by a handler to retail or wholesale outlets, which include vending machines but do not include plants or distribution points. The route disposition of a handler shall be attributed to the processing and packaging plant from which the Class I milk is moved to retail or wholesale outlets without intermediate movement to another processing and packaging plant.

DEFINITION OF PERSONS

§ 1015.5 Person.

"Person" means any individual, partnership, corporation, association or any other business unit.

§ 1015.6 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 1015.7 Producer.

(a) "Producer" means for any month a dairy farmer who produces cow's milk which is received, other than in packaged form, by a handler during the month directly from the dairy farmer's farm under one of the following conditions and who does not meet the conditions specified in paragraph (b) of this section.

(1) The milk is received by the handler at a pool plant.

(2) The milk is reported by the handler as diverted milk under § 1015.28.

(3) The milk is transferred by a handler or his agent from the dairy farmers' farm tank into a tank truck and is not delivered to any plant because of loss or destruction by accident or faulty equipment en route to the plant and milk from the same farm was received at a pool plant as producer milk during the month.

(4) The milk is transferred by a handler under § 1015.9(d) from the dairy farmer's farm tank into a tank truck and is not delivered to the pool plant of another handler, if the handler who operates the pool plant does not purchase the dairy farmer's milk on the basis of farm tank measurements and butterfat tests determined from farm tank samples.

(b) No dairy farmer shall be considered a producer for any month:

(1) If he is a producer-handler under any Federal order;

(2) With respect to milk delivered which is considered as a receipt from a producer under the provisions of another Federal order; or

(3) With respect to exempt milk delivered.

§ 1015.8 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, known as the "Capper-Volstead Act;"

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales of, or marketing milk or its products for its members.

§ 1015.9 Handler.

"Handler" means, for any month:

(a) Any person who operates a pool plant.

(b) Any person who operates any other plant or a pool bulk tank unit as defined under another Federal order, from which fluid milk products are disposed of, directly or indirectly, in the marketing area.

(c) Any cooperative association:

(1) With respect to producer milk lost or destroyed under conditions specified in § 1015.24(a);

(2) With respect to milk which it causes to be diverted to a nonpool plant and which it reports as diverted milk under § 1015.28;

(3) With respect to producer milk which it causes to be delivered to the pool plant of another cooperative association, if it elects to report the milk under § 1015.40 as a receipt of producer milk at the location of the plant to which it was delivered; and

(4) With respect to producer milk transferred by a handler described in paragraph (d) of this section from a producer's farm tank into a tank truck owned or operated by or under contract to such association and not delivered to the pool plant of another handler, if the handler who operates the pool plant does not purchase such milk on the basis of farm tank measurements and butterfat tests determined from farm tank samples.

(d) Any cooperative association with respect to producer milk delivered from the farm to a pool plant in a tank truck owned and operated by or under contract to such association if prior to delivery it gives notice in writing to both the market administrator and the receiving handler of its intention to file the reports required under § 1015.41(c) and to furnish the information required under § 1015.24(c).

(e) Any person who does not operate a plant but who engages in the business of receiving fluid milk products for resale and distributes to retail or wholesale outlets packaged fluid milk products received from any plant described in paragraph (a) or (b) of this section.

§ 1015.10 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and a handler during the month and who meets all the conditions specified in this section. Sections 1015.60 through 1015.65, 1015.70 through 1015.75, 1015.80 through 1015.82 and 1015.87 through 1015.89 shall not apply to a producer-handler as defined under this or any other Federal order.

(a) His only sources of milk supply are his own production and fluid milk products transferred from pool plants, except that a State-owned and operated institution or establishment otherwise meeting this definition which processes and packages milk produced by another such institution or establishment may receive such milk without having it regarded as a source of supply for fluid milk products. For the purposes of this paragraph, any fluid milk products which were acquired or purchased from a nonpool plant by him, his agent, partner or other associate and which he or such other person caused to be delivered at retail or wholesale outlets (including vending machines) in any Federal marketing area without being first received at his plant shall be included in such person's nonpool source of fluid milk products.

(b) He provides as his own enterprise and at his own risk the maintenance, care and management of the dairy herd and other resources and facilities which he uses to produce milk, to process and package such milk at his own plant, and for route disposition.

(c) His own route disposition constitutes the majority of the route disposition from his plant.

(d) The quantity of route disposition in the marketing area from his plant is greater than in any other Federal marketing area.

DEFINITIONS OF PLANTS

§ 1015.15 Plant.

"Plant" means the land and buildings, whether owned or operated by one or more persons, at which are maintained stationary holding tanks for milk, facilities and other equipment for the receiving, handling or processing of milk or milk products, constituting a single operating unit or establishment. The term "plant" does not include:

(a) Distribution points (separate premises used primarily for the transfer to vehicles of packaged fluid milk products moved there from processing and packaging plants); or

(b) Bulk reload points (separate premises used for the transfer of milk en route from dairy farmers' farms to a plant).

§ 1015.16 Pool plant.

"Pool plant" means any plant specified in paragraph (a) or (b) of this section.

(a) "Pool distributing plant" means any processing and packaging plant (other than a producer-handler's plant under any Federal order or a regulated plant under another Federal order) with route disposition in the marketing area in the month which is not less than 10 percent of its total receipts of fluid milk products and which meets each of the following conditions:

(1) Its total Class I disposition in the month, or in either of the two preceding months, is not less than 40 percent of its total receipts of fluid milk products in the corresponding month; and

(2) Its route disposition in the marketing area in the month exceeds:

(i) Its route disposition in any other marketing area as defined under a Federal order; and

(ii) 700 quarts on any day or a daily average of 300 quarts.

(b) "Pool supply plant" means any plant specified in subparagraph (1), (3), (4), or (5) of this paragraph (other than a plant specified in subparagraph (2) of this paragraph), at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled and cooled, or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred primarily to stationary holding tanks.

(1) Any plant, other than as provided in subparagraphs (2) through (5) of this paragraph, from which is shipped at least 15 percent of its total receipts of milk from dairy farmers as fluid milk products, other than as diverted milk, to pool distributing plants, producer-handlers and plants to which qualifying shipments may be made under another New England Federal order, if a greater quantity of qualifying shipments are made to pool distributing plants and producer-handlers under this order than to the other plants. In the case of any plant which is eligible for qualification under subparagraph (5) of this paragraph and for which such qualification is requested, the receipts at the plant from dairy farmers and the shipments therefrom to pool distributing plants for the purpose described in this subparagraph, shall include all direct deliveries of milk to pool distributing plants by producer-members of the cooperative association.

(2) No plant shall be a pool supply plant in any month in which it is operated as:

(i) A pool distributing plant;
(ii) The plant of a producer-handler as defined under any Federal order;
(iii) A regulated plant under another Federal order with a marketwide pool, including any plant which has automatic pool plant status for the month under another New England Federal order; or
(iv) A plant qualifying for pooling under a Federal order with individual-handler pooling on the basis of its route disposition or on the basis of shipments of fluid milk products which exceed the shipments of fluid milk products qualifying the plant for pooling under this order.

(3) Any plant holding pool supply plant status under this order or another New England Federal order in each of the months of July through November, or any plant holding pool supply plant status under this order or another New England Federal order in not less than two of the preceding months of July through November and would have been a pool supply plant under one of such orders in each of the remaining months of such period were it not a pool plant under the New York-New Jersey Federal order, and, in either case, has a greater proportion of its receipts from dairy farmers pooled under this order during such period than under another New England Federal order shall have automatic pool plant status in the immediately succeeding months of December through June, unless the handler submits to the market administrator by the 16th day of the month his written request for revocation of the plant's automatic pool plant status for such month. In that event the revocation also shall apply to all subsequent months of the current December through June period.

(4) Any two plants, each of which meets the pooling requirements of this paragraph in at least one of the months of July through November, which are operated by the same handler or for which one handler is responsible for the movement of milk to pool distributing plants or to producer-handlers may be considered, during the remaining months of August through November, as a unit for the single purpose of having qualifying shipments therefrom combined for determining pool plant status under this paragraph, subject to the following conditions:

(i) The operator of such plants submits written notice to the market administrator by the 15th day of the first month for which such status is to apply specifying the plants to be considered as a unit and the period during which such consideration should apply;

(ii) Any plant included in a unit under this subparagraph may be a nonpool plant if, by the 15th day of the month in which such nonpool status shall apply, the operator of such plant submits a written request to the market administrator to withdraw such plant from pool plant status, and shall be a nonpool plant if fully regulated under another Federal order. Such nonpool status shall be effective until the plant requalifies as a pool plant on the basis of shipments as provided in this paragraph, and in no case shall it be included in a unit prior to the next following August; and

(iii) If the combined shipments of the unit are less than would be required to qualify each of such plants separately under this paragraph, the individual plants may regain pool plant status on the basis of shipments as provided in this section, but shall not be included in a unit prior to the next following August.

(5) Any plant operated by a cooperative association (which shall be the plant closest to Hartford, Connecticut, if more than one plant is operated by such association) shall be a pool plant in any month in which the total quantity of milk shipped therefrom to a pool distributing plant or to a producer-handler, plus the total quantity of milk received directly from farms at pool distributing plants from producers who are members of such association, is at least 50 percent of the milk delivered by dairy farmer-members of such association to all pool plants and to the plant for which pooling qualification pursuant to this subparagraph is requested in writing by the 15th day of such month, subject to the following conditions:

(i) Any plant which has pooling status under this subparagraph may be a nonpool plant for the month if the operating association submits, by the 15th day of such month, a written request to the market administrator to withdraw such plant from pool plant status under this subparagraph and, if so withdrawn, such plant may not requalify under this subparagraph prior to the next following July; and

(ii) Qualification for pooling under this subparagraph shall not affect in any way the requirements of subparagraph (4) of this paragraph for unit pooling.

§ 1015.17 Exempt distributing plant.

"Exempt distributing plant" means a plant, other than a pool supply plant or a regulated plant under another Federal order, which meets all the requirements for status as a pool distributing plant except that its route disposition in the marketing area in the month does not exceed 700 quarts on any day or a daily average of 300 quarts.

§ 1015.18 Distributing plant for unregulated markets.

"Distributing plant for unregulated markets" means a processing and packaging plant from which the route disposition outside any marketing area defined under any Federal order amounts to more than 50 percent of its total receipts of fluid milk products during the month. The term shall not apply to a pool plant, an exempt distributing plant under any New England Federal order, a producer-handler's plant under any Federal order, or a regulated plant under another Federal order.

§ 1015.19 Regulated plant under another Federal order.

"Regulated plant under another Federal order" means a pool plant or any other plant at which all fluid milk products handled become subject to the classification and pricing provisions of another Federal order. The term shall also include a pool bulk tank unit as defined under another Federal order.

Definitions of Milk and Milk Products

§ 1015.22 Fluid milk products.

"Fluid milk products" means milk, skimmed milk, flavored milk or skimmed milk, cultured skimmed milk, buttermilk, concentrated milk, any mixture of milk or skimmed milk and cream containing less than 10 percent butterfat, and 50 percent of the quantity by weight of any mixture of milk or skimmed milk and cream containing at least 10 percent but less than 12 percent butterfat. The term includes these products in fluid, frozen, fortified, or reconstituted form but does not include sterilized products in hermetically sealed containers and such products as eggnog, yogurt, whey, ice cream mix, ice milk mix, milk shake base mix, and evaporated or condensed milk or skimmed milk in either plain or sweetened form. Fluid milk products which have been placed in containers for disposition to retail or wholesale outlets are referred to in this part as packaged fluid milk products.

§ 1015.23 Cream.

"Cream" means that portion of milk, containing not less than 12 percent butterfat which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term also includes soured cream, frozen cream, fortified cream, reconstituted cream, any mixture of milk or skimmed milk and cream containing 12 percent or more of butterfat, and 50 percent of the quantity by weight of any mixture of milk or skimmed milk and cream containing at least 10 percent but less than 12 percent butterfat.

§ 1015.24 Producer milk.

(a) "Producer milk" means for any month:

(1) Milk which a handler has received at a pool plant from producers or from a cooperative association in its capacity as a handler under § 1015.9(d);

(2) Milk received from dairy farmers' farms by a handler (other than a cooperative association in its capacity as a handler under § 1015.9(d)) which he has reported as diverted milk under § 1015.28;

(3) Milk transferred by a handler or his agent from a producer's farm tank into a tank truck and not delivered to any plant because of loss or destruction by accident or faulty equipment enroute to the plant. The milk shall be considered as a receipt by such handler at the pool plant where milk from the same farm was received as producer milk during the month except that if the milk was transferred at the farm by a cooperative association into a truck owned and operated by or under contract to the association, the milk shall be considered as a receipt by the association in its capacity as a handler under § 1015.9(c)(1) at the same plant zone location as the pool plant at which milk from the same farm was received as producer milk during the month; and

(4) Milk transferred by a cooperative association in its capacity as a handler under § 1015.9(d) from a producer's

farm tank into a tank truck and not delivered to the pool plant of another handler, if the handler who operates the pool plant does not purchase such producer's milk on the basis of farm tank measurements and butterfat tests determined from farm tank samples. The milk shall be considered as a receipt by the association at the pool plant where milk from the same farm was received as producer milk during the month.

(b) In the case of milk moved from the farm in a tank truck, it shall be considered as having been received by the handler on the date the milk was taken into the truck.

(c) In the case of milk received by a handler at a pool plant from a cooperative association in its capacity as a handler under § 1015.9(d), the operator of the pool plant shall report the milk as having been received from farm location differential areas in accordance with information which shall be furnished to him by the association on or before the 7th day after the end of the month.

§ 1015.25 Pool milk.

"Pool milk" means fluid milk products (other than exempt milk) received or disposed of as specified in this section:

(a) Receipts of producer milk;

(b) The following receipts of fluid milk products at pool plants from other plants (exclusive of receipts from other pool plants, producer-handlers under any Federal order, exempt distributing plants under any New England Federal order and receipts from regulated plants under other Federal orders which were classified and priced under the other orders). The highway mileage distance between each transferor-plant and Boston, Massachusetts shall be determined in a manner similar to that described under § 1015.62.

(1) Receipts at pool distributing plants from plants located outside the New England States and more than 400 miles from Boston, Massachusetts;

(2) Receipts at pool supply plants, to the extent assigned to Class I milk under § 1015.55(b)(5), from plants located outside the New England States and more than 400 miles from Boston, Massachusetts; and

(3) Receipts at pool plants, to the extent assigned to Class I milk under § 1015.55(b)(6), from plants located within one of the New England States or not more than 400 miles from Boston, Massachusetts, exclusive of bulk fluid milk products from distributing plants for unregulated markets;

(c) Receipts of bulk fluid milk products at pool distributing plants from regulated plants under other Federal orders with individual-handler pools which are assigned to classes under § 1015.55(c)(2);

(d) Receipts of bulk fluid milk products at pool supply plants, to the extent assigned to Class I milk under § 1015.55(e), from regulated plants under other Federal orders with individual-handler pools;

(e) Route disposition in the marketing area from any processing and packaging plant (except a pool plant, a regulated plant under another Federal order, or a producer-handler's plant under any Federal order) to the extent of all such disposition in the month which is in excess of 700 quarts on any day, or of a daily average of 300 quarts, whichever is greater. In determining the quantity of pool milk pursuant to this paragraph, the total quantity of route disposition in the marketing area from such plant shall first be reduced by the quantity of fluid milk products received at such plant during the month which is classified and priced as Class I milk or its equivalent under any marketwide pool Federal order and which is not used to offset route disposition in any other Federal marketing area. Such reduction shall first be made in any route disposition which is in excess of 700 quarts on any day; and

(f) Route disposition in the marketing area from a regulated plant under another Federal order of fluid milk products which are not both classified and priced under the other order to the extent of all such disposition in the month which is in excess of 700 quarts on any day or of a daily average of 300 quarts, whichever is greater.

§ 1015.26 Exempt milk.

"Exempt milk" means:

(a) Fluid milk products received at a pool plant during the month from the operator of a nonpool plant if such transfers occur during an interval in which the facilities of one of the plants at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm or similar extraordinary circumstances completely beyond the dealer's or handler's control and if either of the following conditions is applicable:

(1) Fluid milk products were received in bulk form for processing and packaging and an equivalent quantity of packaged fluid milk products was returned to the operator of the nonpool plant during the same month.

(2) Packaged fluid milk products were received and an equivalent quantity of bulk fluid milk products was moved to the nonpool plant for processing and packaging during the same month.

(b) Milk produced and processed in accordance with the standards of purity and quality for certified milk established by the American Association of Medical Milk Commissions and disposed of as packaged certified milk or packaged certified skimmed milk.

(c) Milk produced by a State-owned and operated institution which milk is processed and packaged at a plant operated by a similar institution to the extent that such milk is used only to serve residents of either institution on the premises thereof.

§ 1015.27 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts (including any Class II milk products produced in the handler's plant during a prior month) in a form other than fluid milk products or cream which are reprocessed, converted or combined into another product during the month, including any disappearances of nonfat milk products not otherwise accounted for; and

(b) Receipts (other than pool milk and exempt milk) of fluid milk products from any source other than a pool plant. This term shall not include the inventory of fluid milk products at the beginning of the month.

§ 1015.28 Diverted milk.

(a) "Diverted milk" means for any month milk produced by a dairy farmer which meets the conditions specified under paragraphs (b) and (d) of this section, which a handler under § 1015.9 (a) or (c) elects to report under § 1015.40 as a receipt of producer milk and which the handler caused to be moved in bulk from the dairy farmer's farm to a nonpool plant (other than the plant of a producer-handler). If a cooperative association is the first handler under § 1015.9(d) of the milk, the election to report as diverted milk any of the milk delivered by the producer shall be limited to the association.

(b) The following conditions shall apply to milk which is reported as diverted to a nonpool plant:

(1) During any month of July through March:

(i) The handler caused milk to be moved from the farm to a nonpool plant during any month of July through September on not more than 10 days (5 days in the case of every-other-day delivery) during such month, or during any month of October through March on not more than 12 days (6 days in the case of every-other-day delivery). If the milk is caused to be moved to a nonpool plant by a cooperative association which is also the first handler under § 1015.9(d) and the milk cannot be identified as representing the total delivery of one or more farmers, it shall be considered for the purpose of counting the number of days of diversion that the milk of each producer whose milk was commingled in the tank truck was moved to the nonpool plant.

(ii) The farmer delivered producer milk to a pool plant earlier in the month or during the immediately preceding month. This requirement shall not be applicable, however, if the farmer's milk is moved from the farm in a tank truck in which it is commingled with milk produced by other farmers, the majority of whom meet this requirement.

(2) During any month of April through June, the handler caused milk to be moved from the farm to a nonpool plant and the farmer producing the milk held producer status throughout the two months immediately preceding such month. This requirement shall not be applicable, however, if the farmer's milk is moved from the farm in a tank truck in which it is commingled with milk produced by other farmers, the majority of whom meet this requirement.

(c) Milk which qualifies under this section shall be treated for the purpose of pricing as a receipt of producer milk by the handler at the location of the pool plant from which the milk was diverted. If during the two months immediately preceding any month of April through June, the farmer's milk was treated as producer milk at pool plants in two or

more zone locations, the milk shall be deemed in this month to have been received at the zone locations of such plants in the proportion that the respective quantities of producer milk at each such plant were considered to have been delivered during such two-month period, by the dairy farmers.

(d) Any dairy farmer whose milk is physically diverted to a nonpool plant(s) during any month of July through March on more than the number of days specified in paragraph (b) of this section shall not be considered to qualify under this section with respect to any milk diverted to a nonpool plant(s) during the month.

MARKET ADMINISTRATOR

§ 1015.30 Designation.

The agency for the administration of this part shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of the Secretary.

§ 1015.31 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To make rules and regulations to effectuate its terms and provisions;

(c) To receive, investigate and report to the Secretary complaints of violations; and

(d) To recommend amendments to the Secretary.

§ 1015.32 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to those specified in this section:

(a) Within 45 days following the date on which he enters upon his duties, he shall execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

(b) He shall employ and fix the compensation of any persons deemed necessary to enable him to exercise his powers and perform his duties.

(c) He shall obtain a bond in a reasonable amount and with reasonable surety thereon, covering each employee who handles funds entrusted to the market administrator.

(d) He shall pay out of the funds provided by § 1015.87 the cost of his bond and of the bonds of his employees, his own compensation and all other expenses necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties, except those expenses incurred under § 1015.75.

(e) He shall keep books and records to reflect clearly the transactions provided for in this part and, upon request by the Secretary, surrender them to any other person the Secretary may designate.

(f) He shall submit his books and records to examination by the Secretary and furnish any information and reports requested by the Secretary.

(g) He shall publicly announce (by posting in a conspicuous place in his office and by such other means as he deems appropriate):

(1) By the 25th day of the month, the Class I price for the following month as computed under § 1015.60;

(2) By the 5th day of the month, the Class II price and butterfat differential for the preceding month, as computed under §§ 1015.61 and 1015.71, respectively;

(3) By the 14th day of each month, the basic uniform price for the preceding month computed under § 1015.64 and the zone uniform prices resulting from the adjustment of the basic uniform price by the zone price differentials under § 1015.62; and

(4) By the 25th day of each January, the monthly base Class I percentage factors computed under § 1015.65(a). For each of the months from the effective date of this subparagraph through January 1965, these factors shall be so announced by the 25th day of the month preceding such effective date.

(h) He shall prepare and make available for the benefit of producers, handlers, and consumers, statistics and information concerning the operation of this part.

(i) He shall verify handlers' reports and payments to the extent necessary, by any appropriate means including audit of the handlers' records and of the records of any other persons upon whose utilization the classification of skim milk and butterfat depends. If verification discloses the original classification was incorrect, the market administrator shall make appropriate reclassification of such skim milk and butterfat.

(j) At his discretion and unless otherwise directed by the Secretary, he shall publicly announce (by posting in a conspicuous place in his office and by such other means as he deems appropriate) the name of any handler the value of whose fluid milk products is not included in the computation of the basic uniform price (computed under § 1015.64) because of failure to make reports pursuant to § 1015.40 or payments pursuant to § 1015.81.

REPORTS, RECORDS AND FACILITIES

§ 1015.40 Monthly reports of receipts and utilization.

On or before the 8th day after the end of each month, or not later than the 10th day if the report is delivered in person to the office of the market administrator, each handler with respect to each of his pool plants or any other plant from which there is route disposition in the marketing area and handlers specified in § 1015.9(c) shall report to the market administrator in the detail and on forms prescribed by the market administrator showing the respective quantities of skim milk and butterfat contained in:

(a) Receipts of milk:

(1) From own farm production; and

(2) As producer milk from other dairy farmers;

(b) Receipts of pool milk other than producer milk;

(c) Receipts of exempt milk;

(d) Receipts of fluid milk products from other pool plants;

(e) Receipts of other source milk and cream;

(f) Inventories of fluid milk products and cream at the beginning and end of the month; and

(g) The utilization of all skim milk and butterfat required to be reported pursuant to this section classified in accordance with the provisions of §§ 1015.50 through 1015.53.

§ 1015.41 Other reports of receipts and utilization.

(a) Within 5 days after the first receipt at his pool plant of fluid milk products during the month from each plant which is neither a regulated plant nor a producer-handler's plant under Federal Order No. 2 or any New England Federal order, each handler shall file with the market administrator a report showing the identity of the operator of the shipping plant, the plant location, and such other information respecting the receipt as the market administrator may prescribe. However, until such time as full information relative to the receipts and utilization during the month at any shipping plant located within one of the New England States, or not more than 400 miles from Boston, Massachusetts, is submitted to the market administrator, it shall be considered with respect to any receipts of fluid milk products in bulk that such shipping plant is a distributing plant for unregulated markets.

(b) For any month in which it is claimed that the farm of any dairy farmer from whom he received milk is located in a farm location differential area described in § 1015.72, each handler from whose plant pool milk other than producer milk is moved to a pool plant, and each handler with route disposition of pool milk in the marketing area from a nonpool plant, shall file with the market administrator a report showing the name, post office address, and the farm location of each dairy farmer from whom he received milk at the plant during the month, and the total pounds of milk received from each farm. The report shall be submitted within 5 days after the market administrator's request, made not earlier than the 22d day after the end of the month.

(c) Each handler under § 1015.9(d) shall report to the market administrator in detail and on forms prescribed by the market administrator by the date on which reports are due under § 1015.40 after the end of each month, the quantities of skim milk and butterfat in producer milk delivered to each pool plant in such month and in the milk transferred into the tank truck at each producer's farm.

(d) Each handler other than as specified under § 1015.40 and paragraph (c) of this section shall file with the market administrator reports relating to his receipts and utilization of milk and milk products during the month at the time and in the manner prescribed by the market administrator.

(e) Each handler who dumps fluid milk products under § 1015.52(d) at his pool plants shall:

(1) Mail or deliver to the market administrator within 48 hours following each dumping not witnessed by the market administrator or his agent, a report in writing, as prescribed by the market administrator, showing the date on which the dumping was made and the quantity dumped, such report to be signed by both the person who performed the dumping operation and the person authorized to sign reports for the handler under § 1015.40 (if the latter person is not available to sign the report within the 48-hour period, the signature of the plant manager or plant superintendent shall be substituted on the report); and

(2) Give the market administrator, at the request of and in accordance with instructions issued by the market administrator, advance notice of intention to make such disposition and of the quantities involved.

§ 1015.42 Reports regarding individual producers.

(a) Within 5 days after a producer moves from one farm to another, begins or resumes delivery to any of a handler's pool plants, or begins to deliver his milk to the handler's plant by tank truck, other than a producer whose milk was directed to such pool plant by a cooperative association, the handler shall file with the market administrator a report showing the applicable date, the producer's name, post office address, and the farm and plant locations involved. The report shall also indicate, if known, the plant to which the producer had been delivering prior to beginning or resuming deliveries.

(b) Promptly after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, other than a producer whose milk was directed to such pool plant by a cooperative association, the handler shall file with the market administrator a report showing the date of last delivery, the producer's name, post office address, and the farm and plant locations involved. The report shall also indicate, if known, the reason for the producer's failure to continue deliveries.

(c) On or before the 8th day after the end of each month, each handler shall file with respect to each producer whose milk was directed to his pool plant by a cooperative association such of the information specified in paragraphs (a) and (b) of this section as the market administrator shall request except that if the milk is directed to the plant by a cooperative association in its capacity as a handler under § 1015.9(d), the cooperative association shall file the information.

§ 1015.43 Notices to producers.

Within 7 days after the end of each sampling period for which a composite butterfat test of a producer's milk was determined, each handler shall give each producer from whom he receives milk written notice of such composite test. This requirement, however, shall not be applicable if the test was determined by a State agency in accordance with laws and regulations of the State and if the handler and the producer are required to be notified at least monthly by such agency of the results of such tests and the computation of the average test to be used as a basis of payment for the milk for the month.

§ 1015.44 Records and facilities.

(a) Each handler shall maintain detailed and summary records showing all receipts, movements and disposition of milk and milk products during each month, and the quantities of milk and milk products in the inventories at the beginning and end of each month.

(b) For the purpose of ascertaining the correctness of any report made to the market administrator as required by this part or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(1) Verify the information contained in the reports submitted in accordance with this part;

(2) Weigh, sample and test milk and milk products; and

(3) Make such examination of records, operations, equipment and facilities as the market administrator deems necessary for the purpose specified in this paragraph.

(c) Each handler under § 1015.9 (a), (c), and (d) shall submit to the market administrator, within 5 days after his request made not earlier than 22 days after the end of the month, his producer payroll for the month, which shall show for each producer or with respect to producer milk received from a cooperative association in its capacity as a handler under § 1015.9(d):

(1) The daily and total pounds of milk delivered and its average butterfat test; and

(2) The net amount of the handler's payments to the producer, or cooperative association with the prices, deductions and charges involved.

§ 1015.45 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the month to which such books and records pertain. If within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION AND ASSIGNMENT OF MILK AND MILK PRODUCTS

§ 1015.50 Skim milk and butterfat to be classified.

All skim milk and butterfat which is required to be reported pursuant to § 1015.40 shall be classified pursuant to the provisions of §§ 1015.51 to 1015.53. Bulk milk which a cooperative association causes to be delivered under § 1015.9(c)(3) to the pool plant of another cooperative association shall be considered as if it were transferred between two pool plants located in the same zone location. When nonfat milk solids derived from nonfat dry milk, condensed skim milk or any other product condensed from milk or skim milk are utilized or unaccounted for by the handler, the total pounds of skim milk classified shall reflect a volume equivalent to the skim milk used to produce such nonfat milk solids, except that if the solids are utilized to fortify fluid milk products or cream, the actual weight of any such products shall be included in classifying the total product weight.

§ 1015.51 Class I milk.

Class I milk shall be all skim milk and butterfat (including that used to produce concentrated milk):

(a) Disposed of in the form of fluid milk products other than as specified in § 1015.52;

(b) Disposed of in the form of cream excepted under § 1015.52(a); or

(c) Not established as Class II milk under § 1015.52.

§ 1015.52 Class II milk.

Class II milk shall be all skim milk and butterfat for which the handler who first receives the skim milk and butterfat proves that the skim milk and butterfat were:

(a) Disposed of as cream, except 50 percent of the quantity by weight of any cream testing at least 12 percent but less than 16 percent butterfat disposed of in a marketing area, or to a plant, regulated under another New England Federal order if it is Class I milk under such other order;

(b) Used to produce any product except a fluid milk product or cream;

(c) Disposed of for livestock feed or in bulk fluid milk products to manufacturing establishments such as bakeries, candy factories, soup factories and similar establishments at which the fluid milk products were used in the manufacture of food products other than milk products;

(d) Contained in fluid milk products dumped, if the conditions of § 1015.41(e) are met by the handler;

(e) Contained in inventory of fluid milk products and cream at the end of the month;

(f) Contained in the quantity of shrinkage prorated to the receipts of skim milk and butterfat as specified in § 1015.54(a);

(g) Contained in the quantity of shrinkage prorated to the receipts of skim milk and butterfat as specified in § 1015.54(b) but not in excess of the quantity computed as follows:

(1) 2.0 percent of pool milk under § 1015.25 (a), (b)(1), and (c) exclusive

of diverted milk, producer milk received from a handler under § 1015.9(d) and producer milk received by a handler under § 1015.9(c)(3);

(2) Plus 1.5 percent of producer milk received from a handler under § 1015.9 (d) and milk received at the pool plant of a cooperative association from another cooperative association as specified in § 1015.9(c)(3) unless the handler receiving the milk at a pool plant notifies the market administrator in writing by the date reports are due under § 1015.40 that he is purchasing the milk on the basis of farm tank measurements and butterfat tests determined from farm tank samples, in which case the applicable percentage shall be 2.0 percent;

(3) Plus 0.5 percent of producer milk received by a handler under § 1015.9 (c) (3) and (4) and (d) which it caused to be delivered to the pool plant of another handler if the latter handler has not notified the market administrator in writing by the date reports are due under § 1015.40 that it is purchasing the milk on the basis of farm tank measurements and butterfat tests determined from farm tank samples;

(4) Plus 1.5 percent of bulk fluid milk products and cream received from pool plants and regulated plants under other Federal orders with marketwide pools; and

(5) Less 1.5 percent of bulk fluid milk products and cream transferred to other plants;

(h) Contained in fluid milk products lost or destroyed under extraordinary circumstances completely beyond the control of the handler, if such loss is substantiated by records satisfactory to the market administrator; or

(i) Contained in fluid milk products transferred or diverted from a pool plant to another plant other than the plant of a producer-handler under any Federal order if the conditions of § 1015.53 are met.

§ 1015.53 Class II transfers and diversions of fluid milk products.

Class II transfers and diversions shall be all skim milk and butterfat in any fluid milk product moved:

(a)(1) In bulk from a pool plant subject to a zone price differential to another pool plant to the extent assigned to Class II milk at the transferee-plant under § 1015.55.

(2) In bulk from a pool plant in the nearby plant zone to another pool plant if a Class II use is indicated on the reports submitted under § 1015.40 by the operators of both plants. However, the quantity classified as Class II milk shall not exceed the quantity assigned to Class II milk at the transferee-plant under § 1015.55.

(b)(1) In bulk to a regulated plant under another Federal order, except as provided in subparagraph (2) of this paragraph, to the extent assigned to Class II milk or a comparable class under the other Federal order.

(2) In packaged form containing at least 3 percent butterfat or in bulk to a pool plant as defined in Federal Order No. 2 or to any plant from which a greater aggregate quantity of fluid milk products is disposed of as route disposition in the New York-New Jersey marketing area than in the Connecticut marketing area to the extent it is not assigned to Class I-B or is assigned to Class I-A but not subjected to charges specified in § 1002.44 of such order.

(c) In bulk to a nonpool plant which is not a regulated plant under another Federal order if Class II utilization is established, except that to the extent the transferee-plant has route disposition in the marketing area at least an equivalent quantity of the transferred or diverted fluid milk products shall not be assigned to Class II milk. The quantities classified as Class II milk shall not be greater than the volume of fluid milk products received from regulated plants under other Federal orders, which is in excess of the Class I utilization at such transferee-plant.

(d) In bulk to a nonpool plant which is not a regulated plant under another Federal order and thence to another such plant to the extent provided by applying the provisions of paragraph (c) of this section. However, classification shall not be as Class II milk if the other nonpool plant to which such movement is made is not regulated under a Federal order and is located outside the New England States and New York State.

§ 1015.54 Shrinkage.

For the purposes of § 1015.52 (f) and (g), the total shrinkage of skim milk and butterfat, respectively, for the month shall be prorated to the total pounds of skim milk and butterfat received which are included in paragraphs (a) and (b) of this section.

(a) Pool milk under § 1015.25(b) (2) and (3) and (d); cream receipts exclusive of receipts from pool plants and regulated plants under other Federal orders with marketwide pools; and other source milk exclusive of fluid milk products received from regulated plants under other Federal orders with marketwide pools, packaged fluid milk products from regulated plants under other Federal orders with individual-handler pools, and Class II products other than cream which were reprocessed, converted or combined into another such product.

(b) All other receipts not included under paragraph (a) of this section, exclusive of exempt milk, diverted milk, and Class II products other than cream which were reprocessed, converted or combined into another such product.

§ 1015.55 Assignment to classes of skim milk and butterfat received.

The total quantity of skim milk and butterfat received at each pool plant and by handlers specified in § 1015.9(c) during the month and required to be reported under § 1015.40, shall be assigned separately, in the manner and sequence provided below, to the respective quantities of skim milk and butterfat classified in each class under §§ 1015.50 through 1015.53.

(a) To the pounds in Class I milk, assign the pounds in:

(1) Exempt milk; and

(2) Packaged fluid milk products from regulated plants under any Federal order, if the fluid milk products are classified and priced as Class I milk or are subject to such classification and pricing or the equivalent thereof under the order if assigned to Class I milk under this order.

(b) To the remaining pounds in each class, beginning with Class II milk, assign the pounds in:

(1) Cream in inventory at the beginning of the month and received during the month;

(2) Receipts of other source milk in a form other than fluid milk products and cream;

(3) Fluid milk-products from producer-handlers under any Federal order and from exempt distributing plants under any New England Federal order in sequence beginning with the plant most distant from Hartford according to its zone location;

(4) Bulk fluid milk products from distributing plants for unregulated markets located within one of the New England States or not more than 400 miles from Boston, Massachusetts, in sequence beginning with the plant most distant from Hartford according to its zone location;

(5) Fluid milk products received at pool supply plants from plants located outside the New England States and more than 400 miles from Boston, Massachusetts, not previously assigned, in sequence beginning with the plant most distant from Hartford according to its zone location, except receipts from regulated plants under other Federal orders which are classified and priced under the orders;

(6) Fluid milk products not previously assigned received from plants located within one of the New England States or not more than 400 miles from Boston, Massachusetts, in sequence, beginning with the plant most distant from Hartford according to its zone location, except bulk receipts from regulated plants under other Federal orders which are classified and priced under the orders; and

(7) Fluid milk products in inventory at the beginning of the month.

(c) For pool distributing plants:

(1) To the remaining pounds in Class II milk, assign the pounds of bulk fluid milk products received during the month from regulated plants under another Federal order on which a Class II use was claimed by the operators of both plants; and

(2) To the remaining pounds in each class, in proportion to the respective remaining pounds in each class at all of the handler's pool plants, assign the pounds in bulk fluid milk products received from each regulated plant under another Federal order (except receipts assigned under subparagraph (1) of this paragraph), to the extent that such receipts are not offset by transfers of bulk fluid milk products to the same plants, if such receipts are classified and priced under the other order as Class I milk or are subject to such classification and pricing or the equivalent thereof, if assigned to Class I milk under this order. Should the quantity to be assigned to either class exceed the respective quantity remaining in that class at the plant

of receipt, the respective quantity remaining in that class shall be increased to the quantity to be assigned and the respective quantity remainin_ in the other class shall be decreased by an identical quantity. If such an adjustment is required at the receiving plant, an offsetting adjustment shall be made to the respective remaining quantities in each class at the handler's other pool plants, in sequence beginning with the plant nearest Hartford.

(d) To the remaining pounds in each class, beginning with Class II milk, assign the pounds of fluid milk products received during the month from regulated plants under another Federal order which are classified and priced other than as Class I milk or the equivalent thereof under the other order irrespective of the classification assigned under this order, and were not previously assigned, in sequence beginning with the plant most distant from Hartford according to its zone location.

(e) For pool supply plants, assign to the remaining pounds in each class, beginning with Class II milk, the pounds of bulk fluid milk products received during the month from regulated plants under other Federal orders which were not previously assigned.

(f) For pool distributing plants, if bulk fluid milk products are received from a pool supply plant(s) subject to a zone price differential:

(1) During the months of July through November, subtract from the remaining pounds in Class II milk a quantity equal to such remainder or 15 percent of the receipts of producer milk, whichever is less; and

(2) During the months of December through June, subtract from the remaining pounds in Class II milk a quantity equal to such remainder or five percent of the Class I utilization at such plants, whichever is less.

(g) (1) Assign to the remaining pounds in Class II milk, a quantity equal to such remainder or the pounds of bulk fluid milk products received during the month from other pool plants subject to a zone price differential, whichever is less, in sequence, beginning with the plant most distant from Hartford according to its zone location.

(2) If bulk fluid milk products are received from pool plants in the "nearby plant" zone and a Class II use of such products is indicated on the reports submitted under § 1015.40 by the operators of both the transferor-plant(s) and transferee-plant, assign to the remaining pounds in Class II milk a quantity equal to such remainder or the pounds of bulk fluid milk products received during the month from such pool plants, whichever is less.

(h) Add to the remaining pounds in Class II milk, the pounds subtracted pursuant to paragraph (f) of this section.

(i) To the remaining pounds in each class, beginning with Class I milk, assign the pounds of bulk fluid milk products received during the month from other pool plants which were not previously assigned. The receipts of fluid milk products shall be assigned to any remainder in Class I milk in sequence beginning with receipts from the plant nearest to Hartford.

(j) To the remaining pounds in each class, beginning with Class I milk, assign, in sequence, the pounds of pool milk received during the month from the following sources:

(1) Receipts of producer milk; and

(2) Receipts of pool milk under § 1015.25(b)(1). Receipts of pool milk assigned to Class I milk under this subparagraph shall be assigned to transferor-plants in sequence beginning with the receipts from the plant nearest to Hartford.

(k) Any remaining pounds in each class shall be known as "overage".

Minimum Prices

§ 1015.60 Class I price.

The Class I price per hundredweight of milk containing 3.5 percent butterfat, at plants in the nearby plant zone under § 1015.62 shall be the amount computed for each month as specified in this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday the latest figures available on the next succeeding workday shall be used.

(a) Compute an economic index, with the year 1958 as the base period, as follows:

(1) Calculate a United States wholesale commodity price index by dividing the monthly wholesale price index for all commodities (as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1957–59 as the base period) by 1.0025.

(2) Calculate a New England consumer income index by multiplying the current annual rate of per capita disposable personal income in the United States (based upon the quarterly figure released by the United States Department of Commerce or the Council of Economic Advisers to the President) by the New England adjustment percentage and dividing the result by 20.50. The New England adjustment percentage shall be the current percentage relationship of per capita personal income in New England to per capita personal income in the United States (using data on per capita personal income by States and regions as published by the United States Department of Commerce).

(3) Calculate a New England dairy ration index by dividing the monthly average price paid by farmers in the New England region for 100 pounds of mixed dairy feed containing less than 29 percent protein (as reported by the United States Department of Agriculture) by 0.04041.

(4) Calculate a New England farm wage rate index by dividing the weighted average farm wage rate for the New England region by 1.9833. The weighted average farm wage rate for the New England region shall be the average of the farm wage rates for the New England region (as reported by the United States Department of Agriculture) weighted by the factors indicated in the following table.

Rate	Weighting factor
Per month with board and room	1.00
Per month with house	1.00
Per week with board and room	4.33
Per week without board or room	4.33
Per day without board or room	26.00

(5) Calculate a New England grain-labor cost index by multiplying the New England dairy ration index by 0.6 and the New England farm wage rate index by 0.4, and combining the two results.

(6) The economic index shall be the result of dividing by seven the sum of three times the United States wholesale commodity price index, the New England consumer income index, and three times the New England grain-labor cost index.

(b) Compute an economic index price as follows:

(1) Multiply the economic index by $0.0557, expressing the result to the nearest mill.

(2) Divide the Class I–A price for the month computed under the New York-New Jersey Federal order, applicable to milk containing 3.5 percent butterfat received at plants located in the 201–210-mile freight zone, by the product of the utilization adjustment percentage and the seasonal adjustment factor which entered into the computation of that price, expressing the result to the nearest mill.

(3) The economic index price shall be the price computed in subparagraph (1) of this paragraph, except that its deviation from the result obtained in subparagraph (2) of this paragraph shall be limited to $0.05.

(c) Compute a supply-demand adjustment factor (using quantities announced in the statistical reports of the respective market administrators for the New England Federal orders for the second, third, and fourth months preceding the month for which the price is being computed) as follows:

(1) For each of the three months, determine the total Class I producer milk and the total producer milk for the New England Federal order markets by combining the respective totals for the individual markets.

(2) For each of the three months, divide the total Class I producer milk for the New England Federal order markets by the base Class I percentage factor for the same month as determined under § 1015.65(a). The result shall be the New England base supply for that month.

(3) For each of the three months, express the total producer milk for the New England Federal order markets as a percentage of the New England base supply for the same month. The simple

average of the three resulting percentages shall be the percentage of base supply.

(4) The supply-demand adjustment factor shall be the figure in the following table opposite the bracket within which the percentage of base supply falls. When the percentage of base supply falls in an interval between brackets, the supply-demand adjustment factor shall be the figure shown for the next higher bracket if the factor for the previous month was based on a bracket higher than such interval, and shall be the figure for the next lower bracket if the factor for the previous month was based on a bracket lower than such interval.

Percentage of base supply: [1]	*Supply-demand adjustment factor*
90.5–91.5	1.06
92.0–93.0	1.05
93.5–94.5	1.04
95.0–96.0	1.03
96.5–97.5	1.02
98.0–99.0	1.01
99.5–100.5	1.00
101.0–102.0	.99
102.5–103.5	.98
104.0–105.0	.97
105.5–106.5	.96
107.0–108.0	.95
108.5–109.5	.94

[1] If the percentage of base supply calculated according to subparagraph (3) of this paragraph falls outside the extremes shown in this column, the supply-demand adjustment factor shall be determined by extending the table at the indicated rate of extension.

(d) The seasonal adjustment factor shall be the factor listed below for the month for which the price is being computed.

Month:	*Seasonal adjustment factor*
January and February	1.04
March	1.00
April	.92
May and June	.88
July	.96
August	1.00
September	1.04
October, November, and December	1.08

(e) Multiply the economic index price determined under paragraph (b) of this section by the product of the supply-demand adjustment factor determined under paragraph (c) of this section and the seasonal adjustment factor determined under paragraph (d) of this section. The Class I price shall be the price set forth in column 3 of the following table opposite the range within which the result of this computation falls, plus 47 cents.

Range		Price
At least—	But less than—	
$4.72 [1]	$4.94	$4.83
$4.94	5.16	5.05
$5.16	5.38	5.27
$5.38	5.60	5.49
$5.60	5.82	5.71
$5.82	6.04	5.93
$6.04	6.26	6.15
$6.26	6.48	6.37
$6.48	6.70	6.59
$6.70	[1] 6.92	6.81

[1] If the result of the computation specified in this paragraph is less than $4.72 or is $6.92 or more, the price shall be determined by extending the table at the indicated rate of extension.

(f) Notwithstanding the provisions of the preceding paragraphs of this section, the Class I price for November or December of each year shall not be lower than the Class I price for the immediately preceding month.

§ 1015.61 Class II price.

The Class II price per hundredweight of milk containing 3.5 percent butterfat at plants located in the nearby plant zone shall be computed for each month as specified in this section.

(a) Adjust the average price for milk for manufacturing purposes, f.o.b. plants United States, as reported by the United States Department of Agriculture on a preliminary basis for the month, by subtracting for each one-tenth of 1 percent of average butterfat content above 3.5 percent, or adding for each one-tenth of 1 percent of average butterfat content below 3.5 percent, an amount per hundredweight which shall be calculated by multiplying by 0.125 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported by the United States Department of Agriculture for the period beginning with the 16th day of the preceding month and ending with the 15th day of the current month.

(b) Adjust the result obtained in paragraph (a) of this section by the amount shown below for the applicable month:

Month	Amount	Month	Amount
January	+$0.138	July	+$0.138
February	+.128	August	+.208
March	+.059	September	+.168
April	+.018	October	+.168
May	−.012	November	+.168
June	−.002	December	+.168

§ 1015.62 Plant zone price differentials.

The class prices and the basic uniform price computed under §§ 1015.60, 1015.61 and 1015.64 shall be subject to zone price differentials based upon the zone location of the plant at which producer milk is received or from which pool milk other than producer milk or other source milk is received or distributed if the plant is located outside Connecticut or a town of Massachusetts or Rhode Island which borders on the State boundary of Connecticut and is more than 50 miles from Hartford, Connecticut.

(a) Each plant located in the State of Connecticut or in a town of Massachusetts or Rhode Island which borders on the State boundary of Connecticut and any other plant located not more than 50 miles from Hartford, Connecticut, as determined in the manner specified in paragraph (c) of this section, shall be in the "nearby plant" zone.

(b) The zone location of each plant which is not in the "nearby plant" zone shall be based upon its highway mileage distance to Hartford, as determined by use of Mileage Guide No. 7 and supplements to and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Washington, D.C. The mileage used shall be those shown between designated key points in the mileage charts, and between named points on the appropriate State road maps, as published in the mileage guide. In any instance the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located.

(c) The distance for each plant shall be the mileage between Hartford and the named point nearest to the plant, as shown in the mileage charts. If that named point is not listed in the mileage charts, the distance for the plant shall be the lowest mileage distance between Hartford and that named point, computed as follows:

(1) Determine from the charts the mileage between Hartford and each of the three key points nearest to the named point which are nearer to Hartford than the named point. If there are fewer than three key points which are so located, Hartford shall be used as one of the key points.

(2) For each of these key points, add to the result in subparagraph (1) of this paragraph, the mileage between the key point and the named point, measured to the greatest extent possible over roads designated as paved, all-weather roads.

(d) The zone price differentials for each plant shall be those applicable to its zone location as shown in the following table:

PLANT ZONE PRICE DIFFERENTIALS

Distance to Hartford (miles)	Plant location zone	Class I and uniform price differentials (cents per hundredweight)	Class II price differentials (cents per hundredweight)
Various	Nearby plant	0.0	0.0
51 to 60	6	−26.0	−1.4
61 to 70	7	−27.4	−1.7
71 to 80	8	−28.8	−2.0
81 to 90	9	−30.2	−2.6
91 to 100	10	−31.6	−2.8
101 to 110	11	−33.0	−2.9
111 to 120	12	−34.4	−3.2
121 to 130	13	−35.8	−3.4
131 to 140	14	−37.2	−3.7
141 to 150	15	−38.6	−4.2
151 to 160	16	−40.0	−4.5
161 to 170	17	−41.4	−4.6
171 to 180	18	−42.8	−5.2
181 to 190	19	−44.2	−5.4
191 to 200	20	−45.6	−5.7
201 to 210	21	−47.0	−5.8
211 to 220	22	−48.4	−6.4
221 to 230	23	−49.8	−6.5
231 to 240	24	−51.2	−6.7
241 to 250	25	−52.6	−6.7
251 to 260	26	−54.0	−7.0
261 to 270	27	−55.4	−7.1
271 to 280	28	−56.8	−7.3
281 to 290	29	−58.2	−7.4
291 to 300	30	−59.6	−7.6
301 to 310	31	−61.0	−8.1
311 to 320	32	−62.4	−8.2
321 to 330	33	−63.8	−8.3
331 to 340	34	−65.2	−8.6
341 to 350	35	−66.6	−8.6
351 to 360	36	−68.0	−8.8
361 to 370	37	−69.4	−8.9
371 to 380	38	−70.8	−9.1
381 to 390	39	−72.2	−9.2
391 to 400	40	−73.6	−9.3
401 and over	41 and over	(1)	−9.3

[1] Class I and uniform price differentials applicable to plants located more than 400 miles from Hartford shall be obtained by extending the table at the rate of 1.4 cents for each additional 10 miles, except that in no event shall the Class I or uniform price at any zone be less than the Class II price for the month for plants in such zone.

(e) Notwithstanding the provisions of paragraphs (b) and (c) of this section, if the lowest highway mileage distance between Hartford and a named point has been determined and used as the basis for a plant zone location by the market administrator prior to the effective date of this paragraph, the lowest highway mileage distance between Hartford and that named point shall be determined by the method described in this paragraph until Mileage Guide No. 7 is canceled. The distance shall be determined by use of the appropriate State maps contained in Mileage Guide No. 7, and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Washington, D.C., and shall be the lowest highway mileage between Hartford and the named point on the map, over roads designated thereon as paved, all-weather roads. In the event that the named point is not located on a through, paved, all-weather road, such other roads shall be used to reach a through, paved, all-weather road as will result in the lowest highway mileage to Hartford, except that such other roads shall not be used for a distance of more than 15 miles if it is otherwise possible to connect with a through, paved, all-weather road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located.

§ 1015.63 Value of each handler's fluid milk products.

For each month, the market administrator shall compute the value of fluid milk products for each handler under § 1015.9 (a), (b), and (c) except a producer-handler under any Federal order. The prices used shall be those for the zone location of the plant for which the value is being computed or at which it has been considered that a handler under § 1015.9(c) received producer milk, except that under paragraphs (a)(2), (b)(2), and (f)(2) of this section the prices used shall be those applicable at the zone locations of the plants from which the fluid milk products were received, and under paragraph (c) of this section, the prices which are specified therein shall be used.

(a) Multiply by the applicable class prices the quantities of:

(1) Producer milk assigned under § 1015.55; and

(2) Pool milk other than producer milk assigned under § 1015.55.

(b) Multiply by the applicable Class I prices the quantities of:

(1) Other source milk and cream assigned to Class I milk under § 1015.55(b)(1) and (2); and

(2) Other source milk assigned to Class I milk under § 1015.55 (b) (3) and (4) and (d).

(c) Multiply the difference between the Class II price for the preceding month and the Class I price for the current month applicable at the nearest plant location from which an equivalent quantity of skim milk and butterfat, respectively, was allocated to Class II milk in the preceding month, by the hundredweight of skim milk and butterfat, respectively, assigned to Class I milk under §1015.55(b)(7) for the month which is in excess of the hundredweight of skim milk and butterfat, respectively, allocated to Class II milk under § 1015.55 (e) and (i) during the preceding month and classified and priced as Class I milk or the equivalent thereof under the provisions of any Federal order.

(d) Multiply the quantity of overage in each class under § 1015.55(k) by the applicable class price as adjusted by the butterfat differential computed under § 1015.71.

(e) Multiply the quantity of pool milk under § 1015.25 (e) and (f) distributed as route disposition in the marketing area from the handler's nonpool plant by the applicable Class I price.

(f) Multiply by the applicable Class II prices the quantities of:

(1) Other source milk assigned to Class I milk under § 1015.55 (b) (1) and (2); and

(2) Other source milk assigned to Class I milk under § 1015.55 (b) (3) and (4) and (d).

(g) Add together the values resulting from the computations described in paragraphs (a) through (e) of this section and subtract therefrom the values resulting from the computations described in paragraph (f) of this section. The remainder shall be known as the value of fluid milk products.

§ 1015.64 Basic uniform price.

For each month, the market administrator shall compute a basic uniform price per hundredweight for pool milk containing 3.5 percent butterfat received at or distributed from a plant in the nearby plant zone as follows:

(a) Combine into one total the value of fluid milk products computed under § 1015.63 for each handler who made the reports prescribed in § 1015.40 for the month and who was not in default of payments under § 1015.81 for the preceding month.

(b) Deduct the amount of the plus differentials applicable under § 1015.72 and add the amount of the minus differentials applicable under § 1015.62.

(c) Subtract for each of the months of April, May and June an amount computed by multiplying the total hundredweight of pool milk for such month by 15 cents.

(d) Add for each of the months of July, August and September an amount representing one-third of the aggregate amount subtracted pursuant to paragraph (c) of this section for the immediately preceding three-month period, April–June.

(e) Add an amount equal to not less than one-half of the unreserved cash balance on hand in the producer-settlement fund.

(f) Divide the resulting amount by the total hundredweight of pool milk included under paragraph (a) of this section.

(g) Subtract not less than 4 cents nor more than 5 cents. The result is the "basic uniform price".

§ 1015.65 Factors used in formulas.

(a) The base Class I percentage factors to be used in the computation of the Class I price under § 1015.60 for each of the 12 months beginning with February of each year shall be computed on or before January 25 of that year as specified in this paragraph. For the months from the effective date of this paragraph through January 1965, these factors shall be computed on or before the 25th day of the month prior to such effective date, using the most recent statistical reports of the market administrators for the New England Federal orders which are then available.

(1) For each month of the three preceding years and for December of the fourth preceding year (using the most recent statistical reports of the market administrators for the New England Federal orders) compute the daily average of the total Class I producer milk under all the New England Federal orders and the daily average of the total receipts from producers under all the New England Federal orders.

(2) For each of the two series of daily averages, using the median link-relative method, compute a seasonal index for each month, rounded to two decimal places.

(3) For each month, multiply the seasonal index of Class I producer milk by 0.6812 and divide the product by the seasonal index of receipts from producers for the same month. The result, rounded to one decimal place, shall be the base Class I percentage factor for the month.

(b) If for any reason a price, index, or wage rate specified in this part for use in computing class prices or for other purposes is not reported or published in the manner described in this part, the market administrator shall use one determined by the Secretary to be equivalent to the factor which is specified.

PAYMENTS—GENERAL

§ 1015.70 Payments to producers and cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall pay each producer as follows:

(1) On or before the 5th day after the end of each month for milk received from such producer during the first 15 days of such month at a rate not less than the Class II price for the preceding month.

(2) On or before the 22nd day after the end of the month, each handler shall make final payment to each producer for the total value of milk received from him during the month, at not less than the basic uniform price per hundredweight computed under § 1015.64 subject to the differentials under §§ 1015.62, 1015.71 and 1015.72, minus the amount of the partial payment made to the producer under subparagraph (1) of this paragraph.

(3) If the net payment to a producer is for an amount less than the total amount due the producer under this paragraph, the burden shall rest upon the handler to prove to the market administrator that each deduction from the total amount due is properly authorized

and properly chargeable to the producer. If, on the date payments are due under subparagraph (2) of this paragraph, the handler has not received full payment from the market administrator under § 1015.82, he may reduce pro rata his payment to producers by an amount not to exceed such underpayment. This payment shall be completed after receipt of the balance due from the market administrator by the next following date for making payments under subparagraph (2) of this paragraph.

(b) Each handler who receives producer milk from a cooperative association which is determined by the Secretary to be authorized to collect payments for its members, exercises such authority and has so notified the handler in writing, shall make payment in accordance with the provisions of paragraph (a) of this section to the association for the total amount of producer milk received from the association as follows:

(1) On or before the 1st day after the end of the month for producer milk received during the first 15 days of the month; and

(2) On or before the 21st day after the end of the month for producer milk received during the month.

(c) Each handler who receives fluid milk products from a cooperative association in its capacity as the operator of a pool plant or as a handler under § 1015.9(c) shall make a payment to such association as follows:

(1) On or before the 1st day after the end of the month at a rate not less than the Class II price for the immediately preceding month for such fluid milk products received during the first 15 days of the month; and

(2) On or before the 21st day after the end of the month for not less than the value of such fluid milk products classified under § 1015.55 at the applicable class prices for the month adjusted by the zone price and butterfat differentials under §§ 1015.62 and 1015.71 less the amount paid pursuant to subparagraph (1) of this paragraph.

§ 1015.71 Butterfat differential.

In making the payments to producers and cooperative associations required under § 1015.70 or for overages under § 1015.63(d) each handler shall add or subtract for each one-tenth of one percent that the average butterfat content of milk received from producers or the overage is above or below 3.5 percent, respectively, an amount per hundredweight which shall be computed by the market administrator as follows: Multiply by 0.12 the average of the daily prices using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported by the United States Department of Agriculture for the period beginning with the 16th day of the preceding month and ending with the 15th day of the current month and round to the nearest one-tenth cent.

§ 1015.72 Farm location differentials.

(a) In making payments to producers for milk received from a farm located in Connecticut, Rhode Island, in that portion of New York State east of the Hudson River and south of the Berkshire Section of the New York State Thruway, or in that portion of Massachusetts south of the Massachusetts Turnpike, there shall be added 46 cents per hundredweight.

(b) In making payments to producers for milk received from a farm located outside the area described in paragraph (a) of this section, but within that portion of New York State east of the Hudson River and south of the northern boundaries of North Greenbush, Sand Lake, and Stephentown townships in Rensselaer County, and within that portion of Berkshire County, Massachusetts north of the Massachusetts Turnpike, there shall be added 23 cents per hundredweight.

(c) The uniform price for pool milk other than producer milk shall be subject to the applicable differentials for milk received from farms located in the areas set forth in paragraphs (a) and (b) of this section. In applying the differentials such pool milk shall be considered to have been delivered from farms of dairy farmers located in such areas in quantities computed as follows: Divide the respective quantities of milk received directly from dairy farmers' farms located in each nearby farm location differential area at the plant from which the pool milk was received or distributed by the total receipts of fluid milk products at the plant, multiply by 100 and apply each of the resulting percentages to the total quantity of pool milk other than producer milk received or distributed from such plant. Until such time as full information relative to the receipts at the plant from dairy farmers, including the respective quantities of milk received from dairy farmers' farms in each farm location differential area, is submitted to the market administrator, it shall be considered that none of the farms from which milk was received at the plant is located in any nearby farm location differential area.

§ 1015.73 Statements to producers.

In making the payments to producers or cooperative associations under § 1015.70 (a) or (b), each handler shall furnish a supporting statement, in such form that it may be retained by the recipient. In making final payment to a cooperative association under § 1015.70(b)(2) the information specified in paragraphs (a), (b) and (e) of this section shall be furnished on or before the 14th day after the end of each month; and for partial payment under § 1015.70(b)(1) the information specified in paragraphs (a), (b) and (d) of this section shall be furnished on or before the 25th day of each month. The supporting statement shall show:

(a) The month and the identity of both the handler and producer;

(b) The total pounds and average butterfat test of milk received from the producer except that the butterfat test shall not be required on statements accompanying payment for the first 15 days of the month;

(c) The minimum rate or rates at which payment to the producer is required under § 1015.70;

(d) The rate which is used in making the payment;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions under § 1015.75, together with a description of the respective deductions; and

(f) The net amount of payment to the producer or cooperative association.

§ 1015.74 Adjustment of payments to producers and cooperative associations.

Whenever the market administrator's verification of a handler's payments to producers discloses payment to a producer or a cooperative association of an amount less than is required by § 1015.70 the handler shall make payment of the balance due the producer or cooperative association not later than the date for making payment under § 1015.70 for the month in which the handler is notified by the market administrator of the deficiency.

§ 1015.75 Marketing service deductions.

(a) In making the payments required by § 1015.70 (a)(2) and (b) for producer milk, other than milk delivered by himself and any producer who is a member of a cooperative association which the Secretary determines is performing the services specified in paragraph (b) of this section, each handler shall deduct 3 cents per hundredweight, or such lesser amount as the Secretary shall determine to be sufficient, for marketing services. The handler shall pay the amount deducted to the market administrator on or before the 19th day after the end of the month.

(b) The market administrator shall expend amounts received under paragraph (a) of this section only in providing market information to the producers who delivered the milk which was subject to such deduction and for verification of weights, samples, and tests of milk received by handlers from them. The market administrator may contract with a cooperative association for the furnishing of the whole or any part of these services.

(c) Each handler in making the payments required by § 1015.70 (a)(2) or (b) for producer milk delivered by members of a cooperative association which the Secretary determines is performing the services specified in paragraph (b) of this section shall deduct from such payments, in lieu of the deductions specified in paragraph (a) of this section, an amount authorized by such producers. He shall pay the amount deducted to the association on or before the 20th day after the end of the month accompanied by a statement showing the pounds of milk received from each producer from whom the deduction was made.

PAYMENTS—PRODUCER-SETTLEMENT FUND

§ 1015.80 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund". He shall deposit all amounts received from handlers under §§ 1015.81, 1015.88 and

1015.89 into the fund. He shall pay all amounts due handlers under §§ 1015.82 and 1015.88 from the fund, subject to his right to offset a payment due to a handler from the producer-settlement fund against any payment due from the handler to the fund. All amounts subtracted under § 1015.64(c) shall remain therein as an obligated balance until it is withdrawn for the purpose of effectuating § 1015.64(d). The market administrator shall render a statement to each handler who made the reports prescribed in § 1015.40, by the 16th day of the month showing the amount due to or from the producer-settlement fund computed in accordance with §§ 1015.63, 1015.81 and 1015.82.

§ 1015.81 Payments to the producer-settlement fund.

On or before the 19th day after the end of each month, each handler shall pay to the market administrator for deposit into the producer-settlement fund the amount by which the value of fluid milk products computed for the handler under § 1015.63 is greater than the sum of (a) the amount required to be paid his producers, and (b) the value of his receipts of pool milk other than producer milk, both as determined by the application of the basic uniform price computed under § 1015.64 adjusted by the differentials applicable under §§ 1015.62 and 1015.72.

§ 1015.82 Payments out of the producer-settlement fund.

On or before the 21st day after the end of the month, the market administrator shall pay to each handler the amount by which the sum of (a) the amount required to be paid his producers, and (b) the value of his receipts of pool milk other than producer milk, both as determined by the application of the basic uniform price computed under § 1015.64 adjusted by the differentials applicable under §§ 1015.62 and 1015.72 is greater than the value of fluid milk products computed for the handler under § 1015.63. If the unobligated balance in the producer-settlement fund is insufficient to make all payments under this section, the market administrator shall reduce uniformly such payments and shall complete them as soon as the necessary funds are available.

ADMINISTRATION EXPENSE

§ 1015.87 Payment of administration expense.

On or before the 19th day after the end of the month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 4 cents per hundredweight, or such lesser rate as the Secretary may prescribe, as follows:

(a) The payment shall apply to all of a handler's receipts at pool plants during the month of pool milk, exempt milk received in bulk from a nonpool plant for processing and packaging and other source milk assigned to Class I milk under § 1015.55 except that the payment shall not apply to any receipts which are subject to an administration assessment under another Federal order; and

(b) The payment shall also apply to the quantity of pool milk distributed as route disposition in the marketing area from a handler's nonpool plant and to the quantity of producer milk for which a cooperative association is the handler under § 1015.9(c).

ADJUSTMENT OF ACCOUNTS

§ 1015.88 Adjustment of errors in payments.

Whenever the market administrator's verification of reports or payments of any handler discloses an error in payments to or from the market administrator made under §§ 1015.75, 1015.81, 1015.82 or 1015.87 the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Payment of any such adjustment by the handler or the market administrator shall be made on or before the payment date for the month in which such notification is given.

§ 1015.89 Adjustment of overdue accounts.

Any unpaid obligation of a handler under §§ 1015.75, 1015.81, 1015.87 and 1015.88 shall be increased one-half of one percent effective the 22d day of such month and on the 22d day of each month thereafter until the obligation is paid.

MISCELLANEOUS PROVISIONS

§1015.90 Effective time.

The provisions of this part, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 1015.91.

§ 1015.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part, in any event, shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

§ 1015.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

§ 1015.93 Liquidation.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate, if so directed by the Secretary, shall liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected under the provisions of this part, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

§ 1015.94 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part, except as provided in paragraphs (b) and (c) of this section, shall terminate two years after the last day of the month during which the market administrator received the handler's utilization report on the milk involved in the obligation, unless within the two-year period the market administrator notifies the handler in writing that the money is due and payable. Service of the notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of the producer or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator, within the two-year period provided for in paragraph (a) of this section, may notify the handler in writing of the failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to the obligation shall not begin to run until the first day of the month following the month during which all the books and records pertaining to the obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud, or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which the handler claims to be due him under the terms of this part shall terminate two years after the end of the month during which the milk involved in the claim was received if an

underpayment is claimed, or two years after the end of the month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on the payment is claimed, unless the handler, within the applicable period of time, files a petition under section 8c(15)(A) of the Act, claiming the money.

§ 1015.95 Agents.

The Secretary, by designation in writing, may name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 1015.96 Separability of provisions.

If any provision of this part, or its application to any person or circumstances, is held invalid, the application of the provision, and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Effective date: October 1, 1964.

Signed at Washington, D.C., on August 29, 1964.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 64-8710; Filed, Aug. 26, 1964; 8:49 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

RETIREMENT PAY; GOVERNMENT AND DISTRICT OF COLUMBIA EMPLOYEES

1. In § 3.750, paragraph (b) is amended to read as follows:

§ 3.750 Retirement pay.

* * * * *

(b) *Election.* An officer or enlisted man entitled to retirement pay as well as pension or compensation may elect which of the benefits he desires to receive. An election of retirement pay does not bar him from making a subsequent election of the other benefit to which he is entitled. An election filed within 1 year from the date of notification of Veterans Administration entitlement will be considered as "timely filed" for the purpose of § 3.401(e)(1). If the veteran is incompetent the 1-year period will begin on the date notification is sent to the next friend or fiduciary. In initial determinations, elections may be applied retroactively if the claimant was not advised of his right of election and the effect thereof.

* * * * *

2. Section 3.752 is revoked.

§ 3.752 [Revoked]

(72 Stat. 1114; 38 U.S.C. 210)

These VA Regulations are effective December 1, 1964.

Approved: August 19, 1964.

By direction of the Administrator.

[SEAL] W. J. DRIVER,
Deputy Administrator.

[F.R. Doc. 64-8688; Filed, Aug. 26, 1964; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 64-SW-28]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

Alteration of Federal Airways, Control Zone, and Transition Areas

On July 17, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 9675) stating that the Federal Aviation Agency proposed to alter the controlled airspace in the Hobbs, N. Mex., area.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 [New] of the Federal Aviation Regulations is amended, effective 0001 e.s.t. October 15, 1964, as hereinafter set forth.

1. Section 71.123 (29 F.R. 1009, 5317) is amended as follows:

a. In V-68 "Hobbs, N. Mex., including an S alternate via INT of Roswell 132° and Hobbs 280° radials; Midland, Tex., including an S alternate from Hobbs to Midland via INT of Hobbs 147° and Wink, Tex., 066° radials;" is deleted and "Hobbs, N. Mex., including an S alternate; INT of Hobbs 120° and Midland, Tex., 312° radials; Midland, including an S alternate from Hobbs to Midland via INT of Hobbs 136° and Midland 283° radials;" is substituted therefor.

b. In V-79 "via the INT of Hobbs 077° and Lubbock, Tex., 188° radials;" is deleted and "via the INT of Hobbs 073° and Lubbock, Tex., 188° radials;" is substituted therefor.

2. In § 71.171 (29 F.R. 1101) the Hobbs, N. Mex., control zone is amended to read:

Hobbs, N. Mex.

Within a 5-mile radius of Lea County Airport, Hobbs, N. Mex., (latitude 32°41'19" N., longitude 103°13'01" W.); and within 2 miles each side of the Hobbs VOR 219° radial, extending from the 5-mile radius zone to 8 miles SW of the VOR, excluding the portion within a 1.5-mile radius of Hobbs Municipal Airport (latitude 32°46'05" N., longitude 103°12'50" W.).

3. Section 71.181 (29 F.R. 1160) is amended as follows:

a. In the Carlsbad, N. Mex., transition area "064°" and "244°" radials are substituted for the "062°" and the "242°" radials respectively, wherever they appear.

b. The Hobbs, N. Mex., transition area is amended to read:

Hobbs, N. Mex.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Lea County Airport (latitude 32°41'19" N., longitude 103°13'01" W.), and within 5 miles NW and 8 miles SE of the Hobbs VOR 219° radial, extending from the VOR to 12 miles SW of the VOR; and that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at latitude 32°42'00" N., longitude 102°56'00" W., to latitude 32°26'30" N., longitude 102°35'00" W., to latitude 32°19'35" N., longitude 102°55'10" W., to latitude 32°26'-00" N., longitude 103°21'00" W., to latitude 32°33'00" N., longitude 103°29'00" W., to latitude 32°53'00" N., longitude 103°15'00" W., to latitude 32°55'00" N., longitude 103°03'00" W., to latitude 32°49'00" N., longitude 102°55'00" W., to point of beginning.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 21, 1964.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64-8662; Filed, Aug. 26, 1964; 8:45 a.m.]

[Airspace Docket No. 63-WE-103]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES

Alteration of Jet Routes and Reporting Points

On June 9, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 7428) stating that the Federal Aviation Agency (FAA) proposed alteration to Jet Routes Nos. 32, 84 and 94; designation of the Battle Mountain, Nev., and Wells, Nev., VORs as domestic high altitude reporting points; and revocation of the Elko, Nev., VORTAC as a domestic high altitude reporting point.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Comments received did not object to the proposal.

The substance of the proposal has been published; therefore, for the reasons published in the notice, the following actions are taken:

1. In § 75.100 (29 F.R. 1287, 28 F.R. 14421) the following changes are made:

a. In the text of Jet Route No. 32 "Elko, Nev.;" is deleted and "Battle Mountain, Nev.; Wells, Nev.;" is substituted therefor.

b. In the text of Jet Routes Nos. 84 and 94 "Elko, Nev.;" is deleted and "Battle Mountain, Nev.;" is substituted therefor.

2. In § 71.207 (29 F.R. 1223) the following changes are made:

a. "Battle Mountain, Nev." and "Wells, Nev." are added.

b. "Elko, Nev." is deleted.

These amendments shall become effective 0001 e.s.t., October 15, 1964.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 21, 1964.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64-8666; Filed, Aug. 26, 1964; 8:45 a.m.]

[Airspace Docket No. 64-WA-22]

PART 75—ESTABLISHMENT OF JET ROUTES [NEW]

Designation of Jet Route

On April 15, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 5168) stating that the Federal Aviation Agency (FAA) proposed designation of a jet route from Memphis, Tenn., to Spartanburg, S.C.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. All comments received were favorable.

The substance of the proposal has been published; therefore, for the reasons stated in the notice, the following action is taken:

In § 75.100 (29 F.R. 1287) the following is added:

Jet Route No. 118 (Memphis, Tenn., to Spartanburg, S.C.) from Memphis, Tenn., via Chattanooga, Tenn., to Spartanburg, S.C.

This amendment shall become effective 0001 e.s.t., October 15, 1964.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 21, 1964.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64-8663; Filed, Aug. 26, 1964; 8:45 a.m.]

[Airspace Docket No. 64-WA-33]

PART 75—ESTABLISHMENT OF JET ROUTES [NEW]

Designation of Jet Route

On June 13, 1964, a notice of proposed rule making was published in the FEDERAL REGISTER (29 F.R. 7604) stating that the Federal Aviation Agency (FAA) proposed to realign Jet Route No. 78 from the Tulsa, Okla., VORTAC via the Springfield, Mo., VORTAC to the Farmington, Mo., VORTAC.

Interested persons were afforded an opportunity to participate in the rule making through submission of comments. Due consideration was given to all relevant matter presented. The Air Transport Association of America (ATA) commented that the present direct alignment of J-78 between Tulsa and Farmington is satisfactory for operations at and above FL 240 and objected to the proposed dogleg. Other comments received did not object to the proposal.

The FAA agrees that direct alignment of J-78 between Tulsa and Farmington is desirable in view of adequate navigational guidance at and above FL 240 on this segment. However, action is taken herein to designate a new jet route between Springfield and Farmington for flights operating down to 18,000 feet. No action is taken to realign J-78.

The substance of the proposed amendment having been published and for the reasons stated herein and in the notice, the following action is taken:

In § 75.100 (29 F.R. 1287) Jet Route No. 98 is added as follows:

Jet Route No. 98 (Springfield, Mo., to Farmington, Mo.) from Springfield, Mo., to Farmington, Mo.

This amendment shall become effective 0001 e.s.t., October 15, 1964.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 21, 1964.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64-8664; Filed, Aug. 26, 1964; 8:45 a.m.]

[Airspace Docket No. 64-WA-51]

PART 75—ESTABLISHMENT OF JET ROUTES [NEW]

Alteration of Jet Route

The purpose of this amendment to § 75.100 is to alter Jet Route No. 53 between Erie, Pa., and the United States/Canadian border. The Department of Transport, Ottawa, Canada, has requested that this segment be aligned from Erie VORTAC direct to the Kleinburg, Ontario, VOR in lieu of the present alignment from Erie VOR direct to the Toronto, Ontario, VOR. Such action is taken herein.

Since this change is minor in nature and imposes no undue burden on any person, compliance with the notice and public procedure requirements of Sec-

tion 4 of the Administrative Procedure Act is unnecessary. However, to allow sufficient time for appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, the following change is made to § 75.100 (29 F.R. 1287, 10502).

In the caption of Jet Route No. 53 "Toronto, Ontario, Canada" is deleted and "Kleinburg, Ontario, Canada" is substituted therefor. In the text of Jet Route No. 53 "Toronto, Ontario, Canada" is deleted and "Kleinburg, Ontario, Canada" is substituted therefor.

This amendment shall become effective 0001 e.s.t., October 15, 1964.

(Sec. 307(a) of the Federal Aviation Act of 1958; 49 U.S.C. 1348)

Issued in Washington, D.C., on August 21, 1964.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64-8665; Filed, Aug. 26, 1964; 8:45 a.m.]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES [NEW]

[Reg. Docket No. 6119; Amdt. 389]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES [NEW]

Miscellaneous Amendments

The amendments to the standard instrument approach procedures contained herein are adopted to become effective when indicated in order to promote safety. The amended procedures supersede the existing procedures of the same classification now in effect for the airports specified therein. For the convenience of the users, the complete procedure is republished in this amendment indicating the changes to the existing procedures.

As a situation exists which demands immediate action in the interests of safety in air commerce, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator (24 F.R. 5662), Part 97 [New] (14 CFR Part 97 [New]) is amended as follows:

1. By amending the following low or medium frequency range procedures prescribed in § 97.11(a) to read:

LFR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
E Cordova Int	CDV LFR (final)	Direct	800	T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2

Procedure turn S side of SE crs, 116° Outbnd, 296° Inbnd, 1500' within 10 miles of E Cordova Int. Nonstandard due to terrain.
Minimum altitude over E Cordova Int on final approach crs, 1500'; over facility, 800'.
Crs and distance, facility to airport, 266°—1.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.8 miles after passing CDV LFR, turn left, climb to 1500' on SE crs (116°) CDV LFR, proceed to E Cordova Int.
CAUTION: High terrain NW through N to SE of CDV LFR, rising to 2746', 2 to 5 miles NE. Terrain 400' 1.0 mile N of CDV LFR.
NOTES: 1. Maneuvering NE of airport not authorized. 2. ADF not authorized when using CDV LFR.

City, Cordova; State, Alaska; Airport Name, Cordova Mile 13; Elev., 38'; Fac. Class., MLZ; Ident., CDV; Procedure No. 1, Amdt. 11; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 10 Dated, 4 Jan. 64.

2. By amending the following automatic-direction finding procedures prescribed in § 97.11(b) to read:

ADF STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Roberts VOR	Sidney Int	Direct	2400	T-dn*	300-1	300-1	200-½
Sidney Int#	LOM	Direct	2400	C-dn	400-1	500-1	500-1½
DEC VOR	Atwood Int	Direct	2400	S-dn-31	400-1	400-1	400-1
Atwood Int**	LOM	Direct	2400	A-dn	800-2	800-2	800-2
CMI VOR	LOM	Direct	2400				
Bement Int	LOM	Direct	2400				
Mansfield Int	CMI VOR	Direct	2700				

Procedure turn N side of crs, 133° Outbnd, 313° Inbnd, 2400' within 10 miles.
Minimum altitude over facility on final approach crs, 2400'.
Crs and distance, facility to airport, 313°—5.7 miles.
If visual contact not established upon descent authorized landing minimums or if landing not accomplished within 5.7 miles after passing LOM, climb to 2700' and proceed to Mansfield Int via CMI VOR R-325 or as directed by ATC, climb to 2500' and proceed to Bement Int via CMI VOR R-234.
NOTE: *When weather is less than 400-1 aircraft departing Runways 4, 31, and 36 maintain runway track until reaching 1500' due to 1146' tower 2.5 miles NNE.
MSA within 25 miles of the facility: 000°-090°—2100'; 090°-180°—2000'; 180°-270°—2300'; 270°-360°—2800'.
#Sidney Int: Int CMI VOR R-060 and RBS VOR R-165.
**Atwood Int: Int CMI VOR R-180 and DEC VOR R-075.

City, Champaign; State, Ill.; Airport Name, University of Illinois-Willard; Elev., 753'; Fac. Class., LOM; Ident., CM; Procedure No. 1, Amdt. 1; Eff. Date, 5 Sept. 64; Sup. Amdt. No. Orig.; Dated, 23 May 64

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Salem VOR	LOM	Direct	2600	T-dn	300-1	300-1	200-½
Carleton VOR	LOM (final)	Direct	1900	C-dn	400-1	500-1	500-1½
YIP LOM	LOM	Direct	2200	S-dn-3L & R	400-1	400-1	400-1
Creek Int	LOM (final)	Direct	1900	A-dn	800-2	800-2	800-2
Dundee Int	LOM	Direct	2200				
Dundee Int	Creek Int	Via R-250 CRL-VOR.	2200				

Radar vectoring authorized in accordance with approved patterns.
Procedure turn E side of crs, 212° Outbnd, 032° Inbnd, 2200′ within 10 miles.
Minimum altitude over facility on final approach crs, 1900′.
Crs and distance, facility to Runway 3L 032°— 4.2 miles to Runway 3R, 039°—5.0 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.2 miles after passing LOM, climb to 2700′ and proceed to DW LOM or, when directed by ATC, (1) make right turn, climb to 2300′ and proceed to Park Int via QG-VOR R-264, or (2) make right turn, climb to 2300′ and proceed to Rockwood Int via SVM-VOR R-143.
Aircraft executing missed approach may, after being reidentified, be radar controlled.
MSA within 25 miles of the facility: 000°-090°—2800′; 090°-180°—2300′; 180°-270°—2300′; 270°-360°—2300′.

City, Detroit; State, Mich.; Airport Name, Metropolitan Wayne County; Elev., 639′; Fac. Class., LOM; Ident., DT; Procedure No. 1, Amdt. 10; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 9; Dated, 23 Nov. 63

Farley Int	FRY RBn	Direct	2600	T-dn#	300-1	300-1	200-½
MKC VOR	FRY RBn	Direct	2600	C-dn*	600-1	600-1	700-1½
				S-dn-30	600-1	600-1	600-1
				A-dn	800-2	800-2	800-2

Procedure turn E side of crs, 124° Outbnd, 304° Inbnd, 2600′ within 10 miles.
Minimum altitude over facility on final approach crs, 2300′.
Crs and distance, facility to airport, 304°—4.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.9 miles after passing FRY RBn, make immediate right turn, climb to 2700′, return to FRY RBn.
CAUTION: Hills and towers with elevations to 1148′ adjacent to airport W and NW.
NOTE: Authorized for military use only except by prior arrangement.
#When 1293′ tower 3 miles SW is not visible on takeoff, climb to 1800′ before turning toward tower.
*All circling approaches will be made to the E of the airport.
MSA within 25 miles of the facility: 000°-090°—2400′; 090°-180°—3000′; 180°-270°—2400′; 270°-360°—2300′.

City, Fort Leavenworth; State, Kans.; Airport Name, Sherman AAF; Elev., 770′; Fac. Class., MHW; Ident., FRY; Procedure No. 1, Amdt. 4; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 3; Dated, 31 Aug. 63

McChord AFB RBn	GRF RBn	Direct	2000	T-dn	300-1	300-1	200-½
OLM VOR	GRF RBn	Direct	2000	C-dn	600-1	600-1	600-1½
Burton VHF Int	GRF RBn	Direct	2000	A-dn	800-2	800-2	800-2
Bayside VHF Int	GRF RBn	Direct	2000				
Carr VHF Int	GRF RBn	Direct	2000				

Radar transitions and vectoring utilizing McChord RAPCON Radar or Gray AAF Radar authorized in accordance with approved radar patterns.
Procedure turn W side of crs, 325° Outbnd, 145° Inbnd, 2000′ within 10 miles. Not authorized beyond 10 miles.
Minimum altitude over GRF RBn on final approach crs, 1500′.
Crs and distance, GRF RBn to airport, 145°—3.9 miles.
If visual contact not established upon descent to authorized landing minimums of if landing not accomplished within 3.9 miles after passing GRF RBn, turn left, climb to 2000′ direct to GRF RBn or, when directed by ATC, turn right, climb to 3000′ on crs 270° to R-020 OLM VOR, thence direct to OLM VOR.
NOTE: Authorized for military use only except by prior arrangement.
CAUTION: 524′ tower located 0.9 mile from approach end of Runway 14, 550′ trees 0.8 mile from approach end of Runway 14, 385′ tower 0.1 mile E of Runways 14/32.
MSA within 25 miles of facility: 315°-045°—2300′; 045°-135°—6000′; 135°-225°—4400′; 225°-315°—3700′.

City, Fort Lewis; State, Wash.; Airport Name, Gray AAF; Elev., 301′; Fac. Class., MH; Ident., GRF; Procedure No. 1, Amdt. 7; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 6; Dated, 8 Feb. 64

Fort Riley Int	FRI RBn	Direct	2900	T-dn	300-1	300-1	*300-1
				C-dn#	600-1	600-1	600-1½
				A-dn	1600-3	1600-3	1600-3

Procedure turn E side of crs, 207° Outbnd, 027° Inbnd, 2900′ within 10 miles.
Minimum altitude over facility on final approach crs, 1900′.
Crs and distance, facility to airport, 031°—1.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.8 miles after passing FRI RBn, climb to 2900′ on a crs of 050° from the RBn within 15 miles. Turn right and return to FRI RBn.
CAUTION: Restricted area R-3602 adjacent to airport NW. Small arms firing range 2.4 miles N.
NOTE: Final approach from holding pattern not authorized. Procedure turn required.
NOTE: Authorized for military use only except by prior arrangement.
*Takeoff minimums 200-½ on Runway 22 only.
#All circling approaches will be made to the E of the airport. See caution note.
MSA within 25 miles of the facility: 000°-360°—2800′.

City, Fort Riley; State Kans.; Airport Name, Marshall AAF; Elev., 1062′; Fac. Class., MHW; Ident., FRI; Procedure No. 1, Amdt. 4; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 3; Dated, 29 Feb. 64

Sugar Loaf Int	Gaithersburg RBn	Direct	2300	T-dn	300-1	300-1	NA
Dayton Int	Gaithersburg RBn	Direct	2300	C-dn	1000-1	1000-1	NA
Lisbon Int	Gaithersburg RBn	Direct	2300	S-dn	NA	NA	NA
Ashburn Int	Gaithersburg RBn	Direct	2300	A-dn	NA	NA	NA
				If Kane Int* received, the following minimums apply:			
				C-dn	500-1	500-1	NA

Radar vectoring authorized in accordance with approved patterns (BAL APC).
Procedure turn E side of crs, 015° Outbnd, 195° Inbnd, 2300′ within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over facility on final approach crs, 1500′.
Crs and distance, *Kane Int to RBn, 195°—5.7 miles; RBn to Runway 0.16 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile after passing GAI RBn, make a left-climbing turn to 2300′, return to the GAI RBn, hold NE 1-minute left turns, 195° bearing Inbnd.
CAUTION: 740′ high-tension lines alined E and W 1 mile N of airport. 665′ water tank 1.7 miles SW of airport.
*Kane Int: Int 195° bearing GAI RBn and R-137 FDK VOR.
MSA within 25 miles of the facility: 000°-090°—2100′; 090°-180°—2100′; 180°-270°—1800′; 270°-360°—2400′. Major change: Deletes restriction on hours of operation.

City, Gaithersburg; State, Md.; Airport Name, Montgomery County; Elev., 540′; Fac. Class., MHW; Ident., GAI; Procedure No. 1, Amdt. 1; Eff. Date, 5 Sept. 64; Sup. Amdt. No. Orig.; Dated, 30 May 64

ADF STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Johnson City Int	JCY RBn	Direct	3500	T-dn	300-1	300-1	200-½
Fredericksburg Int	JCY RBn	Direct	3500	C-dn	500-1	600-1	600-1½
				A-dn	NA	NA	NA

Procedure turn E side of crs, 166° Outbnd, 346° Inbnd, 3000' within 10 miles.
Minimum altitude over facility on final approach crs, 2500'.
Crs and distance, facility to airport, 346°—2.0 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.0 miles after passing JCY RBn, turn right, climb to 4000' on 350° crs from JCY RBn. Then proceed to SAT VOR R-353 via the Austin, Tex., VOR R-260 thence to Johnson City Int via SAT VOR R-353, maintain 4000', hold N of Johnson City Int, in 1-minute right-hand pattern. Contact ATC for further clearance.
NOTES: 1. Air carrier use not authorized. 2. No weather at airport. 3. Austin altimeter setting will be used for this approach.
CAUTION: Procedure not wholly within controlled airspace.

City, Johnson City; State, Tex.; Airport Name, Johnson City; Elev., 1512'; Fac. Class., MH; Ident., JCY; Procedure No. I, Amdt. 3; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 2; Dated, 30 May 64

				T-dn	400-1	400-1	NA
				C-d	600-1	600-1	NA
				C-n	600-1½	600-1½	NA
				A-dn	NA	NA	NA

Procedure turn S side of crs, 232° Outbnd, 052° Inbnd, 2700' within 10 miles.
Minimum altitude over facility on final approach crs, 1600'.
Crs and distance, facility to airport, 052°—2.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.6 miles after passing MWO RBn, make left-climbing turn to 2700', return to MWO RBn, hold S, 1-minute right turns, 052° Inbnd.
CAUTION: 900' smokestack SW of airport. 1170' tower 3 miles E of airport.
NOTES: No weather reporting. Contact Cincinnati Approach Control for clearance. Communications on 122.8 available from sunrise to sunset. Facility owned and operated by city of Middletown.

City, Middletown; State, Ohio; Airport Name, Hook Field Municipal; Elev., 647'; Fac. Class., MHW; Ident., MWO; Procedure No. 1, Amdt. 3; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 2; Dated, 27 Apr. 63

Lakeport Int	LOM (final)	Direct	1700	T-dn*	300-1	300-1	200-½
Syracuse VOR	LOM	Direct	2000	C-dn	700-1	700-1	700-1½
Toni Int	LOM	Direct	2000	S-dn-28	700-1	700-1	700-1
				A-dn	800-2	800-2	800-2

Procedure turn N side of crs, 098° Outbnd, 278° Inbnd, 2000' within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over facility on final approach crs, 1700'.
Crs and distance, facility to airport, 278°—3.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.9 miles after passing SY LOM, climb straight ahead to 2000' direct to SYR RBn. Hold W of SYR RBn, 098° Inbnd, 1-minute left turns.
CAUTION: 836' antenna 1.1 miles S of approach end of Runway 28. 1220' terrain 15 miles ESE of LOM. 2549' antenna 10.4 miles S of airport.
AIR CARRIER NOTE: Neither sliding scale nor reduction in minimums authorized for takeoffs to the SE.
Toni Int: Int SYR VOR R-222 and SYR ILS localizer (back crs).
*600-1 required for takeoff Runway 14.
MSA within 25 miles of the facility: 000°-090°—2500'; 090°-180°—3500'; 180°-270°—4000'; 270°-360°—2000'.

City, Syracuse; State, N.Y.; Airport Name, Hancock Field; Elev., 421'; Fac. Class., LOM; Ident., SY; Procedure No. 1, Amdt. 18; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 17; Dated, 23 Mar. 63

Syracuse VOR	Syracuse RBn	Direct	2000	T-dn*	300-1	300-1	200-½
Lakeport Int	Syracuse RBn	Direct	2000	C-d	700-1	700-1	700-1½
Weedsport Int	Syracuse RBn (final)	Direct	2000	C-n	700-2	700-2	700-2
Plainville Int	Syracuse RBn (final)	Direct	2000	S-d-10	600-1	600-1	600-1
				S-n-10	600-2	600-2	600-2
				A-dn	800-2	800-2	800-2

Procedure turn N side of crs, 280° Outbnd, 100° Inbnd, 2000' within 10 miles.
Minimum altitude over facility on final approach crs, 2000'.
Crs and distance, facility to airport, 100°—6.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.7 miles after passing SYR RBn, climb to 2000' direct to SY LOM. Hold E of SY LOM, 278° Inbnd, 1-minute right turns.
AIR CARRIER NOTE: Neither sliding scale nor reduction in minimums authorized for takeoffs to the SE.
CAUTION: 836' antenna 1.1 miles S of approach end of Runway 28. 2549' antenna 10.4 miles S of airport.
*600-1 required for takeoff on Runway 14.
MSA within 25 miles of the facility: 000°-090°—2500'; 090°-180°—4000'; 180°-270°—3000'; 270°-360°—2000'.

City, Syracuse; State, N.Y.; Airport Name, Hancock Field; Elev., 421'; Fac. Class., SBH; Ident., SYR; Procedure No. 2, Amdt. 2; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 1; Dated, 22 Feb. 64

PROCEDURE CANCELED EFFECTIVE 5 SEPT. 1964 OR UPON DECOMMISSIONING OF FACILITY.

City, Yakutat; State, Alaska; Airport Name, Yakutat; Elev., 37'; Fac. Class., MHW; Ident., YKU; Procedure No. 2, Amdt. 2; Eff. Date, 14 Dec. 63; Sup. Amdt. No. 1; Dated, 16 Nov. 63

3. By amending the following very high frequency omnirange (VOR) procedures prescribed in § 97.11(c) to read:

VOR STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Chattahoochee Int	ATL VOR	Direct	2500	T-dn	300-1	300-1	200-½
Atlanta RBn	ATL VOR	Direct	2500	C-d	500-1	500-1	500-1½
				C-n	500-2	500-2	500-2
				S-d-3	500-1	500-1	500-1
				S-n-3	500-2	500-2	500-2
				A-dn	800-2	800-2	800-2
				If aircraft equipped with dual VOR, and Riverdale Int* received, minimums become:			
				C-dn	500-1	500-1	500-1½
				S-dn-3	400-1	400-1	400-1

Radar vectoring authorized in accordance with approved patterns.
Procedure turn E side of crs, 196° Outbnd, 016° Inbnd, 2500′ within 10 miles.
Minimum altitude over facility on final approach crs, 2500′.
Minimum altitude over Riverdale Int* on final approach crs, 1500′.
Crs and distance, facility to airport, 016°—8.1 miles Riverdale Int* to airport, 016°—3.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 8.1 miles after passing ATL VOR, or 3.1 miles after passing Riverdale Int,* turn right, climb to 2500′ and proceed to REG VOR via REG VOR R-269.
NOTE: When authorized by ATC, DME may be used from R-090 CW to R-300 within 15 miles at 2500′ to position aircraft for straight-in approach with the elimination of a procedure turn.
*Riverdale Int: Int R-016 ATL VOR and R-307 MDU VOR or 5-mile DME Fix on ATL R-016.
MSA within 25 miles of the facility: 000°–090°—4000′; 090°–180°—2200′; 180°–270°—3300′; 270°–360°—3800′.

City, Atlanta; State, Ga.; Airport Name, Atlanta; Elev., 1024′; Fac. Class., BVORTAC; Ident., ATL; Procedure No. 1, Amdt. 7; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 6; Dated, 16 Nov. 63

OOD VOR	PNE VOR	Via radar vectors*	2400	T-d	300-1	NA	NA
High-Line VHF Int	PNE VOR	Via radar vectors*	2400	C-d	**1000-1½	NA	NA
Ardmore VHF Int	PNE VOR	Via radar vectors*	2400	A-d	NA	NA	NA
PNE VOR	Bristol Int# (final)	080	1000	**If Bristol Int# received, the following minimums apply:			
				C-d	700-1½	NA	NA

Radar vectors to PNE VOR required. Radar vectors authorized in accordance with approved PHL radar patterns.
Procedure turn not authorized.
Minimum altitude over facility on final aproach crs, 2400′.
Crs and distance, facility to airport, 080°—8.0 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 8.0 miles after passing PNE VOR, climb on R-080 to 1500′ within 5 miles, then make left climbing turn to 2400′. Proceed direct to PNE VOR. Hold W 1-minute right turns Inbnd crs, 080°.
CAUTION: Bridge tower 268′ 1.2 miles SE of airport.
#Bristol VHF Int: Int PNE VOR R-080 and ARD VOR R-184.
MSA within 25 miles of the facility: 000°–090°—1800′; 090°–180°—1500′; 180°–270°—2400′; 270°–360°—3000′.

City, Bristol; State, Pa.; Airport Name, 3-M; Elev., 35′; Fac. Class., L-VOR; Ident., PNE; Procedure No. 1, Amdt. Orig.; Eff. Date, 5 Sept. 64

Parowan Int	Summit Int	Direct	11,500	T-dn*	300-1	300-1	200-½
Summit Int	CDC VOR	Direct	7300	C-dn	700-1	700-1	700-1½
				S-dn-20	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn W side of crs, 348° Outbnd, 168° Inbnd, 8000′ within 10 miles. Beyond 10 miles not authorized due to high terrain.
Minimum altitude over facility on final approach crs, 7300′.
Crs and distance, facility to airport, 177°—4.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.0 miles after passing CDC VOR, make right-climbing turn, climb to 8000′ on R-348 within 10 miles of CDC VOR, all turns W.
CAUTION: 6000′ terrain 2 miles S of airport.
*Takeoff not authorized Runway 8.
MSA within 25 miles of the facility: 000°–090°—11,500′; 090°–180°—12,300′; 180°–270°—10,500′; 270°–360°—8600′.

City, Cedar City; State, Utah; Airport Name, Cedar City Municipal; Elev., 5622′; Fac. Class., BVOR; Ident., CDC; Procedure No. 1, Amdt. 3; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 2; Dated, 9 Nov. 63

5-mile Fix R-151	CHA VOR (final)	Direct	2000	T-dn	300-1	300-1	#200-½
				C-dn	600-1½	700-1½	700-2
				S-dn-32	600-1	600-1	600-1
				A-dn	800-2	800-2	800-2

Procedure turn E side of crs, 151° Outbnd, 331° Inbnd, 3000′ within 10 miles.*
Minimum altitude over facility on final approach crs, 2000′.
Crs and distance, facility to airport, 332°—4.9 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.9 miles after passing CHA VOR, climb to 3000′ on CHA VOR R-009 within 15 miles or, when directed by ATC, turn right and return to CHA VOR at 3000′.
CAUTION: Due high terrain and towers, aircraft with limited climb capability departing on routes W through N, should request clearance to climb on a track of 016° or 196° from LMM to 3000′ before continuing climb on crs.
#Takeoff on Runways 14–32 with less than 300–1 not authorized.
*When authorized by ATC, DME may be used within 15 miles at 3500′ between R-087 and R-262 south of facility to position aircraft for a final approach with the elimination of a procedure turn.
MSA within 25 miles of the facility: 000°–090°—4800′; 090°–180°—6100′; 180°–360°—4400′.

City, Chattanooga; State, Tenn.; Airport Name, Lovell Field; Elev., 682′; Fac. Class., BVORTAC; Ident., CHA; Procedure No. 1, Amdt. 6; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 5; Dated, 8 Aug. 64

VOR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Ft Riley Int	FRI VOR	Direct	2900	T-dn	300–1	300–1	*300–1
				C-dn#	700–1	700–1	700–1½
				S-dn-4	700–1	700–1	700–1
				A-dn	1600–3	1600–3	1600–3

Procedure turn S side of crs, 213° Outbnd, 033° Inbnd, 2900′ within 10 miles.
Minimum altitude over facility on final approach crs, 2600′.
Crs and distance, facility to airport, 033°—6.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.3 miles after passing VOR, climb to 2900′ on R-045 within 15 miles. Turn right and return to FRI VOR.
CAUTION: Restricted area R-3602 adjacent to airport NW. Small arms firing range 2.4 miles N.
NOTE: Authorized for military use only except by prior arrangement.
*Takeoff minimums 200–½ on Runway 22 only.
#All circling approaches will be made to the E of the airport. See caution note.
MSA within 25 miles of the facility: 000°–360°—2800′.

City, Fort Riley; State, Kans.; Airport Name, Marshall AAF; Elev., 1062′; Fac. Class., L-VOR; Ident., FRI; Procedure No. 1, Amdt. 2; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 1; Dated, 29 Feb. 64

6-mile DME Fix (R-107)	VOR (final)	Direct	1200	T-dn*	300–1	300–1	200–½
				C-dn	500–1	500–1	500–1½
				S-dn-27#	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn N side of crs, 107° Outbnd, 287° Inbnd, 1900′ within 10 miles.
Minimum altitude over facility on final approach crs, 1200′.
Crs and distance, facility to airport, 287°—3.0 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.0 miles after passing MEM VOR, climb to 1800′ on R-287 within 15 miles or, when directed by ATC, turn left and climb to 1900′ on R-220 within 15 miles.
NOTE: When authorized by ATC, DME may be used from R-055 through R-195 within 25 miles at 1900′ to position aircraft for a straight-in approach with the elimination of the procedure turn.
MSA within 25 miles of the facility: 000°–090°—2300′; 090°–180°—1700′; 180°–270°—1700′; 270°–360°—2300′.
*AIR CARRIER NOTE: Takeoff with less than 200–½ not authorized on Runways 14–32.
#400–¾ authorized, except for turbojet aircraft, with operative high-intensity runway lights.

City, Memphis; State, Tenn.; Airport Name, Memphis Metropolitan; Elev., 331′; Fac. Class., BVORTAC; Ident., MEM; Procedure No. 1, Amdt. 16; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 15; Dated, 29 Feb. 64

Turtle Int	MSY VOR (final)	Direct	1500	T-dn	300–1	300–1	200–½
French Int	MSY VOR (final)	Direct	1500	C-d	500–1	500–1	500–1½
				C-n	500–2	500–2	500–2
				A-dn	NA	NA	NA

Radar vectoring authorized in accordance with approved procedures.
Procedure turn S side of crs, 261° Outbnd, 081° Inbnd, 1500′ within 10 miles.
Minimum altitude over facility on final approach crs, 1500′.
Crs and distance, facility to airport, 079°—7.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 7.4 miles after passing MSY VOR, turn left, climb to 2000′ on MSY VOR R-079 within 20 miles or, when directed by ATC, turn left, intercept MSY VOR R-064, climbing to 1500′ within 20 miles.
NOTE: Night operations not authorized Runways 8–26.

City, New Orleans; State, La.; Airport Name, New Orleans—Lakefront; Elev., 10′; Fac. Class., BVORTAC; Ident., MSY; Procedure No. 1, Amdt. 4; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 3; Dated, 22 Sept. 62

				T-dn*	300–1	300–1	200–½
				C-dn	700–1	700–1	700–1½
				S-dn-14	500–1	500–1	500–1
				A-dn	800–2	800–2	800–2

Procedure turn S side of crs, 311° Outbnd, 131° Inbnd, 2000′ within 10 miles.
Minimum altitude over facility on final approach crs, 1700′.
Crs and distance, facility to airport, 131°—4.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.7 miles after passing SYR VOR, make left climbing turn to 2000′ direct to SYR VOR. Hold NW of SYR VOR on R-311, 1-minute right turns, 131° Inbnd.
AIR CARRIER NOTE: Neither sliding scale nor reduction in minimums authorized for takeoffs to the S.
CAUTION: 836′ antenna 1.1 miles S of approach end of Runway 28. 2549′ antenna 10.4 miles S of airport.
*600–1 required for takeoff on runway 14.
MSA within 25 miles of the facility: 000°–090°—2500′; 090°–180°—4000′; 180°–270°—3000′; 270°–260°—2000′.

City, Syracuse; State, N.Y.; Airport Name, Hancock Field; Elev., 421′; Fac. Class., BVORTAC; Ident., SYR; Procedure No. 1, Amdt. 10; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 9; Dated, 23 Nov. 63

4. By amending the following terminal very high frequency omnirange (TerVOR) procedures prescribed in § 97.13 to read:

TERMINAL VOR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
All directions	Canton VOR	Direct	1500	T-dn	400-1	400-1	400-1
				C-dn	500-1	500-1	500-1½
				S-dn-9	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn S side of crs, 275° Outbnd, 095° Inbnd, 1000′ within 10 miles.
Minimum altitude over facility on final approach crs, 400′.
Facility on airport.
Crs and distance, breakoff point to approach end of runway 9, 092°—0.2 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile of CIS VOR, climb to 1500′ on R-095 within 20 miles.
NOTES: 1. No traffic control available. 2. Procedures lie outside of controlled airspace. 3. Monitor en route frequency for traffic information. Weather information on 126.7
CAUTION: 105′ pole 3.6 miles NE.
MSA within 25 miles of the facility: 000°-360°—1100′.

Canton Island, Phoenix Islands; Airport Name, Canton; Elev., 9′; Fac. Class., VOR-W; Ident., CIS; Procedure No. TerVOR-9, Amdt. 1; Eff. Date, 5 Sept. 64; Sup. Amdt. No. Orig.; Dated, 8 Nov. 58

All directions	Canton VOR	Direct	1500	T-dn	400-1	400-1	400-1
				C-dn	500-1	500-1	500-1½
				S-dn-27	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

Procedure turn N side of crs, 088° Outbnd, 268° Inbnd, 1000′, within 10 miles.
Minimum altitude over facility on final approach crs, 400′.
Facility on airport.
Crs and distance, breakoff point to approach end of Runway 27, 272°—1.0 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile of CIS VOR, climb to 1500′ on R-268 within 20 miles.
NOTES: 1. No traffic control available. 2. Procedure lies outside of controlled airspace. 3. Monitor en route frequency for traffic information. Weather information on 126.7.
CAUTION: 105′ pole 3.6 miles NE.
MSA within 25 miles of the facility: 000°-360°—1100′.

Canton Island, Phoenix Islands; Airport Name, Canton; Elev., 9′; Fac. Class., VOR-W; Ident., CIS; Procedure No. TerVOR-27, Amdt. 1; Eff. Date, 5 Sept. 64; Sup. Amdt. No. Orig.; Dated, 8 Nov. 58

Mansfield Int	CMI VOR	Direct	2700	*T-dn	300-1	300-1	200-½
				C-dn	500-1	500-1	500-1½
				S-dn-31	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2
				Following minimums apply after passing 4-mile DME Fix R-120:			
				C-dn	400-1	500-1	500-1½
				S-dn-31	400-1	400-1	400-1

Procedure turn N side of crs, 120° Outbnd, 300° Inbnd, 2200′ within 10 miles.
Minimum altitude over facility on final approach crs, 1300′.
Crs and distance, breakoff point to Runway 31, 313°—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile of CMI VOR climb to 2700′ and proceed to Mansfield Int* northwest bound on CMI R-325 or, when directed by ATC, climb to 2500′ and proceed to Bement Int southwest bound on CMI VOR R-234.
NOTE: When authorized by ATC, 12-mile DME arc at 2300′ may be used between R-050 clockwise through R-240 to position aircraft for straight-in approach with elimination of procedure turn.
*When weather is less than 400-1 aircraft departing Runways 4, 31 and 36 maintain runway track until reaching 1500′ due to 1146′ tower 2.5 miles NNE.
MSA within 25 miles of the facility: 000°-090°—2200′; 090°-180°—2000′; 180°-270°—2300′; 270°-360°—2800′.

City, Champaign; State, Ill.; Airport Name, University of Illinois-Willard; Elev., 753′; Fac. Class., BVORTAC; Ident., CMI; Procedure No. TerVOR-31, Amdt. 4; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 3; Dated, 23 May 64

				T-dn	300-1	300-1	200-½
				C-dn	500-1	600-1	600-1½
				S-dn-7L	500-1	500-1	500-1
				A-dn	800-2	800-2	800-2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn S side of crs, 262° Outbnd, 082° Inbnd, 1500′ within 10 miles of Anchor Int.*
Minimum altitude over Anchor Int* on final approach crs, 1000′.
Crs and distance, Anchor Int* to VOR 082°—2.3 miles; Breakoff point to runway 068°—1.3 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile of LAX VOR, climb to Firestone Int at 2000′ via R-069.
*Anchor Int: Int LAX VOR R-262 and SMO VOR R-179.
MSA within 25 miles of the facility: 000°-090°—3500′; 090°-180°—2500′; 180°-270°—2400′; 270°-360°—3400′.

City, Los Angeles; State, Calif.; Airport Name, Los Angeles International; Elev., 126′; Fac. Class., H BVOR-DME; Ident., LAX; Procedure No. TerVOR-7L, Amdt. Orig.; Eff. Date, 5 Sept. 64

5. By amending the following very high frequency omnirange-distance measuring equipment (VOR/DME) procedures prescribed in § 97.15 to read:

VOR–DME STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
FTW RBn	BPR VOR	Direct	2500	T–d	300–1	NA	NA
Stoneburg Int	BPR VOR	Direct	3000	C–d	700–1	NA	NA
Slidell Int	BPR VOR	Direct	2500	A–d	NA	NA	NA
15-mile DME Fix R–125	BPR VOR (final)	Direct	2000				

Procedure turn S side of crs, 126° Outbnd, 306° Inbnd, 2500′ within 10 miles. Beyond 10 miles not authorized.
Nonstandard due to ATC requirements.
Minimum altitude over facility on final approach crs, 2000′.
Crs and distance, facility to airport, 306°—2.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 2.1 miles after passing BPR VOR, climb to 3000′ on BPR VOR R–306 within 20 miles.
NOTES: 1. When authorized by ATC, DME may be used to orbit at 15 miles to R–125, 3000′, with elimination of procedure turn. 2. Procedure not wholly contained within controlled airspace. 3. Pilots using this procedure are requested to close their IFR flight plan with FTW FSS through BPR VOR when landing at Bridgeport Municipal Airstrip is assured, or by commercial facilities as soon as practicable after landing. Altimeter setting used will be obtained from FTW FSS (Meacham Field). 4. Night operations not authorized.

City, Bridgeport; State, Tex.; Airport Name, Municipal Air Strip; Elev., 971′; Fac. Class., M–BVORTAC; Ident., BPR; Procedure No. VOR/DME No. 1, Amdt. Orig.; Eff. Date, 5 Sept. 64.

15-mile DME fix R–192	15-mile DME fix R–219	Via 15-mile orbit	8000	T–dn*	300–1	300–1	300–1
15-mile DME fix R–219	15-mile DME fix R–251	Via 15-mile orbit	7500	C–dn	700–1	700–1	700–1½
25-mile DME fix R–243	20-mile DME fix R–243	Direct	8000	S–dn–5	500–1	500–1	500–1
20-mile DME fix R–243	20-mile DME fix R–251	Via 20-mile orbit	8000	A–dn	800–2	800–2	800–2
20-mile DME fix R–251	15-mile DME fix R–251	Direct	8000				
15-mile DME fix R–251	10.5-mile DME fix R–251	Direct	6500				
10.5-mile DME fix R–251	6.9-mile DME fix R–251	Direct	6000				

Procedure turn S side of crs, 251° Outbnd, 071° Inbnd, 8000′ within 10 miles of the 10.5-mile DME fix on R–251.
Minimum altitude over 10.5-mile fix on final approach crs 6500′.
Crs and distance, 10.5-mile fix to airport 071°—3.6 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished at 6.9-mile DME fix R–251, climb to 8000′ direct to FMN VOR, hold E on R–080, left turns.
NOTE: When authorized by ATC, DME may be used within 20 miles between R–192 clockwise to R–251 at 8000′ to position aircraft for final approach with the elimination of a procedure turn.
CAUTION: Terrain rises to 6000′ between 2.0 and 3.0 miles NE of airport.
*500–1 required for take offs on Runway 5.
MSA within 25 miles of the facility: 000°–090°—9500′; 090°–180°—8500′; 180°–270°—8000′; 270°–360°—9500′.

City, Farmington; State, N. Mex.; Airport Name, Farmington Municipal; Elev., 5502′; Fac. Class., H–BVORTAC; Ident., FMN; Procedure No. VOR/DME No. 2, Amdt. 1 Eff. Date, 5 Sept. 64; Sup. Amdt. No. Orig.; Dated, 22 Aug. 64

10-mile DME Fix R–017	5-mile DME Fix R–017	Direct	1500	T–dn	300–1	300–1	200–½
5-mile DME Fix R–017	Houston VOR (final)	Direct	500	C–dn	400–1	500–1	500–1½
				S–dn–21**	400–1	400–1	400–1
				A–dn	800–2	800–2	800–2

Radar vectoring authorized in accordance with approved patterns.
Radar fix may be used in lieu of DME Fix.
Procedure turn W side of crs 017° Outbnd, 197° Inbnd, 1500′ within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over facility on final approach crs, 500′.*
Crs and distance breakoff point to approach end Runway 21, 216°—0.7 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile HOU VOR, climb to 2500′ on R–218 within 20 miles.
CAUTION: 1549′ tower approximately 13 miles SW Houston International Airport. 1235′ tower approximately 9 miles SE of HOU VOR.
*Descent below 1500′ not authorized until passing 5-mile DME Fix on final approach.
**400–¾ authorized, except for turbojet aircraft, with operative hi-intensity runway lights.

City, Houston; State, Tex.; Airport Name, Houston International; Elev., 50′; Fac. Class., H–BVORTAC; Ident., HOU; Procedure No. VOR/DME No. 2, Amdt. 2; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 1; Dated, 9 May 64

10-mile DME fix R–231	5-mile DME fix R–231	Direct	1500	T–dn	300–1	300–1	200–½
5-mile DME fix R–231	Houston VOR (final)	Direct	500	C–dn	400–1	500–1	500–1½
				S–dn–3**	400–1	400–1	400–1
				A–dn	800–2	800–2	800–2

Radar vectoring authorized in accordance with approved patterns.
Radar fix may be used in lieu of DME fix.
Procedure turn S side of crs, 231° Outbnd, 051° Inbnd, 2500′, within 10 miles. Beyond 10 miles not authorized.
Minimum altitude over facility on final approach crs, 500′.*
Crs and distance, breakoff point to approach end Runway 3, 036°—0.8 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 0.0 mile HOU VOR, climb to 1600′ on R–036 within 20 miles.
CAUTION: 1549′ tower approximately 13 miles SW Houston International Airport. 1235′ tower approximately 9 miles SE of HOU VOR.
*Descent below 2000′ not authorized until aircraft is inbound on final approach within 10 miles and descent below 1500′ not authorized until passing 5-mile DME Fix on final.
**400–½ authorized, except for turbojet aircraft, with operative ALS and high-intensity runway lights.

City, Houston; State, Tex.; Airport Name, Houston International; Elev., 50′; Fac. Class., H–BVORTAC; Ident., HOU; Procedure No. VOR/DME No. 3, Amdt. 2; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 1; Dated, 9 May 64

6. By amending the following instrument landing system procedures prescribed in § 97.17 to read:

ILS STANDARD INSTRUMENT APPROACH PROCEDURES

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If an instrument approach procedure of the above type is conducted at the below named airport, it shall be in accordance with the following instrument approach procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitudes shall correspond with those established for en route operation in the particular area or as set forth below.

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
Roberts VOR	Sidney Int	Direct	2400	T-dn#	300–1	300–1	200–½
Sidney Int¢	LOM	Direct	2400	C-dn	400–1	500–1	500–1½
Decatur VOR	Atwood Int	Direct	2400	S-dn-31*	300–¾	300–¾	300–¾
Atwood Int$	LOM	Direct	2400	A-dn	600–2	600–2	600–2
CMI VOR	LOM	Direct	2400				
Bement Int	LOM	Direct	2400				
Mansfield Int	CMI VOR	Direct	2700				

Procedure turn N side of crs, 133° Outbnd, 313° Inbnd, 2400′ within 10 miles.
Minimum altitude at glide slope interception Inbnd 2400′.
Altitude of glide slope and distance to approach end of runway at OM 2355′—5.7 miles, at MM 927′—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2700′ and proceed to Mansfield Int via CMI VOR R–325 or as directed by ATC climb to 2500′ and proceed to Bement Int via CMI VOR R–234.
NOTES: 1. When authorized by ATC DME may be used to position aircraft on final approach crs via the 12-mile DME arc of CMI VOR between R–050 and R–240 at 2400 with elimination of procedure turn. 2. No approach lights.
¢Sidney Int: Int CMI VOR R–060 and RBS VOR R–165.
$Atwood Int: Int CMI VOR R–180 and DEC VOR R–075.
*400–1 required without glide slope.
#When weather is less than 400–1, aircraft departing Runways 4, 31 and 36 maintain runway track until reaching 1500′ due to 1146′ tower 2.5 miles NNE.

City, Champaign; State, Ill.; Airport Name, University of Illinois-Willard; Elev., 753′; Fac. Class., ILS; Ident., I–CMI; Procedure No. ILS–31, Amdt. 1; Eff. Date, 5 Sept. 64; Sup. Amdt. No. Orig.; Dated, 23 May 64.

Houston VOR	Monument Int	Direct	1600	T-dn	300–1	300–1	200–½
Houston RBn	Monument Int	Direct	1600	C-dn	400–1	500–1	500–1½
Monument Int	Pasadena RBn or Fix# (final)	Direct	1100	S-dn-21*	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Radar vectoring authorized in accordance with approved patterns.
Radar terminal transition altitude 2200′ within 20 miles.
Radar may be used to position aircraft for a final approach within 2 miles E of Monument Int in lieu of a procedure turn.
Procedure turn N side NE crs, 036° Outbnd, 216° Inbnd, 1600′, within 10 miles of Pasadena RBn or Fix#.
No glide slope. Minimum altitude over Pasadena RBn or Fix#, 1100′.
Distance, Pasadena RBn or Fix# to Runway 21, 4.0 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 4.0 miles of Pasadena RBn or Fix#, climb to 1600′ on SW crs HOU ILS within 15 miles or, when directed by ATC, turn right, climb to 1800′ on R–306 HOU VOR within 20 miles.
CAUTION: 1232′ MSL TV tower approximately 9 miles SE of LOM.
#Pasadena Fix is a Houston Radar (ASR) fix coinciding with location of Pasadena RBn.
*400–¾ authorized, except for turbojet aircraft, with operative high-intensity runway lights.

City, Houston; State, Tex.; Airport Name, Houston International; Elev., 50′; Fac. Class., ILS; Ident., I–HOU; Procedure No. ILS–21 (back crs), Amdt. 9; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 8; Dated, 7 Apr. 62

Lake Charles VOR	Brown Int*	Direct	1500	T-dn	300–1	300–1	200–½
Lake Charles RBn	Brown Int*	Direct	1500	C-dn*	400–1	500–1	500–1½
				S-dn-33*#	400–1	400–1	400–1
				A-dn*	800–2	800–2	800–2

Procedure turn W side of crs, 148° Outbnd, 328° Inbnd, 1500′, within 10 miles.
Minimum altitude over Brown Int* on final approach crs, 1500′.
Crs and distance, Brown Int* to airport, 328°—5.7 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 5.7 miles after passing Brown Int*, climb to 1500′ on the NW crs of the ILS within 20 miles.
*Brown Int: Int LCH–VOR R–200 and SE crs LCH ILS. If Brown Int not received, descent below 1500′ not authorized.
#400–¾ authorized, except for turbojet aircraft, with operative high-intensity runway lights.

City, Lake Charles; State, La.; Airport Name, Lake Charles Municipal; Elev., 14′; Fac. Class., ILS; Ident., I–LCH; Procedure No. ILS–33, (back crs) Amdt. 4; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 3; Dated, 20 Apr. 63

MEM VOR	Oakville Int	Direct	1900	T-dn#	300–1	300–1	200–½
				C-dn	500–1	500–1	500–1½
				S-dn-27%	400–1	400–1	400–1
				A-dn	800–2	800–2	800–2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn S side E crs, 087° Outbnd, 267° Inbnd, 1900′ within 10 miles of Oakville Int.
No glide slope. Minimum altitude over Oakville Int on final approach crs, 1300′.
Crs and distance, Oakville Int to airport, 267°—3.5 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.5 miles after passing Oakville Int, climb to 1800′ on W crs ILS within 15 miles or, when directed by ATC, turn left, climb to 1900′ on R–220 MEM VOR within 15 miles.
#AIR CARRIER NOTE: Takeoff with less than 200–½ not authorized on Runway 14–32.
% 400–¾ authorized, except for turbojet aircraft, with operative high-intensity runway lights.

City, Memphis; State, Tenn.; Airport Name, Memphis Metropolitan; Elev., 331′; Fac. Class., ILS; Ident., I–MEM; Procedure No. ILS–27 (back crs), Amdt. 10; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 9; Dated, 11 Jan. 64

ILS STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
NUN VOR	Blanchard Int/PNS RBn	Via R-100 NUN VOR	1600	T-dn C-dn S-dn-34% A-dn	300-1 400-1 400-1 800-2	300-1 500-1 400-1 800-2	200-½ 500-1½ 400-1 800-2

Radar vectoring authorized in accordance with approved patterns.
Procedure turn E side S crs, 163° Outbnd, 343° Inbnd, 1600' within 10 mile of Blanchard Int/PNS RBn. Beyond 10 miles not authorized due warning area.
No glide slope. Minimum altitude over Blanchard Int/PNS RBn, 700'.
Crs and distance, Blanchard Int/PNS RBn to approach end of Runway 34, 343°—1.8 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 1.8 miles after passing Blanchard Int/PNS RBn, climb to 2000' on the ILS NW crs within 15 miles or, when directed by ATC, turn right, climb to 2000' on R-054 of the Pensacola (NUN) VOR within 15 miles.
%400-¾ authorized, except for turbojet aircraft, with operative high-intensity runway lights.

City, Pensacola; State, Fla.; Airport Name, Pensacola Municipal (Hagler); Elev., 118'; Fac. Class., ILS; Ident., I-PNS; Procedure No. ILS-34 (back crs), Amdt. 9; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 8; Dated, 20 June 64

SAT VOR SAT RBn Bracken Int#	Wetmore Int Wetmore Int Wetmore Int (final)#	Via R-143 4.8-miles. Via crs 085°—2.4 Direct	2500 2500 1800	T-dn C-dn S-dn-21** A-dn	300-1 400-1 400-1 800-2	300-1 500-1 400-1 800-2	200-½ *500-1½ 400-1 *800-2

Radar transition and vectoring authorized in accordance with approved procedures.
Procedure turn W side of NE crs, 032° Outbnd, 212° Inbnd, 2500' within 10 miles.
No glide slope. No outer marker.
Minimum altitude over Wetmore Int# 1800'.
Crs and distance, Wetmore Int to Runway 21, 212°—3.1 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 3.1 miles after passing Wetmore Int, turn left, climb to 3000' via R-158 within 20 miles or, when directed by ATC, turn right and climb to 2800' via R-353 within 20 miles.
*Runways 17-35 restricted to 2-engine aircraft and smaller.
#Maintain 2500' until SW of Bracken Int on final approach.
**400-¾ authorized, except for turbojet aircraft, with operative high-intensity runway lights.

City, San Antonio; State, Tex.; Airport Name, International; Elev., 808'; Fac. Class., ILS; Ident., I-SAT; Procedure No. ILS-21, Amdt. 15; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 14; Dated, 28 Apr. 62

Syracuse VOR Lakeport Int Weedsport Int Plainville Int	Syracuse RBn Syracuse RBn Syracuse RBn (final) Syracuse RBn (final)	Direct Direct Direct Direct	2000 2000 2000 2000	T-dn* C-dn S-dn-10** A-dn	300-1 700-1 400-1 800-2	300-1 700-1 400-1 800-2	200-½ 700-1½ 400-1 800-2

Procedure turn N side of crs, 278° Outbnd, 098° Inbnd, 2000' within 10 miles.
Minimum altitude over SYR RBn on final approach crs, 2000'; over Liverpool Int#, 1000'.
No glide slope. Crs and distance, SYR RBn to airport, 098°—6.7 miles; Liverpool Int# to airport, 098°—3.4 miles.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished within 6.7 miles after passing SYR RBn (3.4 miles after Liverpool Int), climb straight ahead to 2000' to SY LOM.
Hold E of SY LOM, 278° Inbnd, 1-minute, right turns.
CAUTION: 836' antenna 1.1 miles S of approach end of Runway 28. 2549' antenna 10.4 miles S of airport.
AIR CARRIER NOTE: Neither sliding scale nor reduction in minimums authorized for takeoffs to the SE.
*600-1 required for takeoff on Runway 14.
**Descent below 1000' not authorized for aircraft not equipped for simultaneous reception of VOR and ILS.
#Liverpool Int: Int W crs SYR ILS and R-190 SYR VOR.

City, Syracuse; State, N.Y.; Airport Name, Hancock Field; Elev., 421'; Fac. Class., ILS; Ident., I-SYR; Procedure No. ILS-10 (back crs), Amdt. 9; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 8; Dated, 22 Feb. 64

Lakeport Int Syracuse VOR Toni Int	LOM (final) LOM LOM	Direct Direct Direct	1800 2000 2000	T-dn* C-dn S-dn-28** A-dn	300-1 700-1 200-½ 800-2	300-1 700-1 200-½ 800-2	200-½ 700-1½ 200-½ 800-2

Procedure turn N side of crs, 098° Outbnd, 278° Inbnd, 2000' within 10 miles. Beyond 10 miles not authorized.
Minimum altitude at glide slope Int Inbnd, 1800'.
Altitude of glide slope and distance to approach end of runway at OM, 1740'—3.9 miles; at MM, 642'—0.5 mile.
If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2000' on W crs of ILS to SYR RBn. Hold W of SYR RBn, 098° Inbnd, 1-minute, left turns.
AIR CARRIER NOTE: Neither sliding scale nor reduction in minimums authorized for takeoffs to the SE.
CAUTION: 1220' terrain 15 miles ESE of LOM. 836' antenna 1.1 miles S of approach end of runway 28. ILS point of touchdown approximately 1000' from approach end of Runway 28; 2549' antenna 10.4 miles S of airport.
*600-1 required for takeoff on Runway 14.
**400-1 required with glide slope inoperative.
Toni Int: Int SYR VOR R-222 and SYR ILS Localizer (back crs).

City, Syracuse; State, N.Y.; Airport Name, Hancock Field; Elev., 421'; Fac. Class., ILS; Ident., I-SYR; Procedure No. ILS-28, Amdt. 18; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 17; Dated, 23 Mar. 63

7. By amending the following radar procedures prescribed in § 97.19 to read:

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE

Bearings, headings, courses and radials are magnetic. Elevations and altitudes are in feet, MSL. Ceilings are in feet above airport elevation. Distances are in nautical miles unless otherwise indicated, except visibilities which are in statute miles.

If a radar instrument approach is conducted at the below named airport, it shall be in accordance with the following instrument procedure, unless an approach is conducted in accordance with a different procedure for such airport authorized by the Administrator of the Federal Aviation Agency. Initial approaches shall be made over specified routes. Minimum altitude(s) shall correspond with those established for en route operation in the particular area or as set forth below. Positive identification must be established with the radar controller. From initial contact with radar to final authorized landing minimums, the instructions of the radar controller are mandatory except when (A) visual contact is established on final approach at or before descent to the authorized landing minimums, or (B) at pilot's discretion if it appears desirable to discontinue the approach, except when the radar controller may direct otherwise prior to final approach, a missed approach shall be executed as provided below when (A) communication on final approach is lost for more than 5 seconds during a precision approach, or for more than 30 seconds during a surveillance approach; (B) directed by radar controller; (C) visual contact is not established upon descent to authorized landing minimums; or (D) if landing is not accomplished.

Radar terminal area maneuvering sectors and altitudes														Ceiling and visibility minimums			
From	To	Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Dist.	Alt.	Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
355	075	5–10	11,000											Surveillance approach			
020	150	0–3	6,800	3–5	8,100												
075	122	5–10	8,600											T–dn	300–1	300–1	200–½
122	355	5–10	7,000											C–dn	400–1	500–1	500–1½
150	020	0–5	6,400											S–dn–35, 17#	400–1	400–1	400–1
100	130	10–12	9,500											S–dn–8, 3**	400–1	400–1	400–1
130	160	10–12	7,500											A–dn	800–2	800–2	800–2
355	065	10–30	12,500											Precision approach			
065	100	10–30	9,500														
100	160	12–30	11,500											S–dn–8**	300–¾	300–¾	400–1
160	355	10–30	7,500											A–dn	600–2	600–2	600–2

Radar control will provide 1000′ vertical clearance within a 3-mile radius of Manzano Peak 10,098′ located 27 miles SE and 6850′ peak located 29 miles SW.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished Runways 35, 8 and 3: Turn left and climb to 8000′ on 260° crs direct to ABQ–VOR or, when directed by ATC, turn left and climb to 8000′ on 260° crs from ABQ–RBn within 20 miles. Runway 17: Climb straight ahead to AB–LOM and climb in a holding pattern S to 7000′ (Inbnd bearing 350°), left turns, or (1) when directed by ATC, turn right, climb to 8000′ on 260° crs from ABQ–RBn within 20 miles or (2) make right climbing turn to 8000′ on 260° crs direct to ABQ VOR.

NOTES: No approach lights.

CAUTION: Terrain exceeding 8000′ in E quadrants.

**500–1½ required for civil jet aircraft.

#Runway 17: 400–¾ authorized, except for turbojet aircraft, with operative high-intensity runway lights.

#Runway 35: 400–½ authorized, except for turbojet aircraft, with operative ALS and high-intensity runway lights.

City, Albuquerque; State, N. Mex.; Airport Name, Albuquerque Sunport/Kirtland AFB; Elev., 5352′; Fac. Class. and Ident., Kirtland Radar; Procedure No. 1, Amdt. 13; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 12; Dated, 13 July 63

*360	195	0–17	4600											Surveillance approach			
**196	359	0–17	5000														
														T–dn	300–1	300–1	200–½
														C–dn	400–1	500–1	500–1½
														S–dn–21, 03#	400–1	400–1	400–1
														13, 31	400–1	400–1	500–1½
														A–dn	800–2	800–2	800–2

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished Runway 03: Climb to 5000′ and proceed to Amarillo VOR or, when directed by ATC, turn right and climb to 5000′ proceeding out R–076 Amarillo VOR within 15 miles. Runway 21: Climb to 5000′ and proceed to LOM or, when directed by ATC, turn left and climb to 5000′, proceeding out R–076 Amarillo VOR within 15 miles. Runway 13: Turn left, climb to 5000′ proceeding out R–076 Amarillo VOR within 15 miles. Runway 31: Turn right, climb to 5000′ to Amarillo VOR, proceed out R–076 within 15 miles.

*Radar control will provide 1000′ vertical clearance within a 3-mile radius of KGNC radio tower 3860′ 13.5 miles NE or maintain 4900′.

**Radar control will provide 1000′ vertical clearance within a 3-mile radius of TV antennas 4308′ and 4298′ 8.5 miles WNW or maintain 5300′.

#Runway 03: 400–½ authorized, except for turbojet aircraft, with operative ALS and high-intensity runway lights.

#Runway 21: 400–¾ authorized, except for turbojet aircraft, with operative high-intensity runway lights.

City, Amarillo; State, Tex.; Airport Name, Amarillo AFB/Municipal; Elev., 3607′; Fac. Class. and Ident., Amarillo Radar; Procedure No. 1, Amdt. 2; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 1; Dated, 4 May 63

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
Radar terminal area maneuvering altitudes and azimuth measured clockwise around radar antenna site:				Surveillance approach			
335°	205°	Within:					
335°	205°	0–5 miles	5000	T–dn	300–1	300–1	200–½
335°	205°	5–15 miles	5500	C–dn	400–1	500–1	500–1½
		15–20 miles	7000	S–dn–22*	400–1	400–1	400–1
				S–dn–26	400–1	400–1	400–1
				A–dn	800–2	800–2	800–2

Radar control must provide 1000′ vertical clearance within a 3-mile radius of 4148′ stacks 5.0 miles S, radio towers 4627′ 3–5 miles NW, hill 5067′ 13 miles NE, hill 4651′ 9.5 miles E and hill 6717′ 22 miles NE.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished turn left to 090°, climb to 6000′ on ELP VOR R–120 within 20 miles.

*400–½ authorized, except for turbojet aircraft, with operative ALS and high-intensity runway lights.

City, El Paso; State, Tex.; Airport Name, El Paso International; Elev., 3956′; Fac. Class. and Ident., El Paso Radar; Procedure No. 1, Amdt. 3; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 2; Dated, 19 Jan. 63

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less: 65 knots or less	2-engine or less: More than 65 knots	More than 2-engine, more than 65 knots
300°	175°	0-6 miles	2300				
175°	300°	0-6 miles	3000				
300°	010°	6-15 miles	3000				
010°	175°	6-15 miles	2700				
175°	300°	6-15 miles	Not usable.				
				Surveillance approach			
				T-dn#	300-1	300-1	200-½
				C-dn-15*	700-1	700-1	700-1½
				C-dn-33*	600-1	600-1	700-1½
				S-dn-15	700-1	700-1	700-1
				S-dn-33	600-1	600-1	600-1½
				A-dn	800-2	800-2	800-2
				Precision approach			
				T-dn#	300-1	300-1	200-½
				C-dn*	600-1	600-1	700-1½
				S-dn-15, 33	300-1	300-1	300-1
				A-dn	600-2	600-2	600-2

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished Runway 15: Climb to 2700' and proceed to FRY RBn. Runway 33: Climb to 2700', make right turn and proceed to FRY RBn.
NOTE: Procedure authorized for military use only except by prior arrangement.
CAUTION: Hills and towers with elevations to 1148' adjacent to airport W and NW.
*All circling approaches will be made to the E of the airport.
#When 1293' tower 3 miles SW is not visible on takeoff, climb to 1800' before turning toward tower.

City, Fort Leavenworth; State, Kans.: Airport Name, Sherman AAF; Elev., 770'; Fac. Class., RADAR; Ident., FLV; Procedure No. 1, Amdt. Orig.; Eff. Date, 5 Sept. 64

All sectors	Radar site	Within 20 miles	3000	T-dn	300-1	300-1	**300-1
				Precision approach#			
				C-d*	600-1	600-1	600-1½
				C-n*	600-2	600-2	600-2
				S-d-4-22	400-1	400-1	400-1
				S-n-4	400-2	400-2	400-2
				S-n-22	500-2	500-2	500-2
				A-dn	1500-3	1500-3	1500-3
				Surveillance approach#			
				C-d*	600-1	600-1	600-1½
				C-n*	600-2	600-2	600-2
				S-d-4-22	600-1	600-1	600-1
				S-n-4-22	600-2	600-2	600-2
				A-dn	1500-3	1500-3	1500-3

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished Runway 4: Turn right climb to 3000' on 050° bearing from FRI RBn within 15 miles. Runway 22: Turn left climb to 3000' on 050° bearing from FRI RBn within 15 miles.
NOTE: Procedure authorized for military use only except by prior arrangement.
CAUTION: Restricted Area R-3602 adjacent to airfield NW. Small arms firing ranges 2.4 miles N of airfield.
*Circling approaches will be made E of the airfield.
**Takeoff minimums 200-½ on Runway 22 only.
#CAUTION: On approach to Runway 4 do not descend below 2100' until Radar advises passing 1786' tower 5.0 miles SW of airport.

City, Fort Riley; State, Kans.; Airport Name, Marshall AAF; Elev., 1062'; Fac. Class. and Ident., Marshall Radar; Procedure No. 1, Amdt. 3; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 2; Dated, 29 Feb. 64

All directions	Radar site	Within 20 miles	*1600	Surveillance approach			
				T-dn	300-1	300-1	200-½
				C-dn-3, 12, 30	400-1	500-1	500-1½
				S-dn-3, 12, 30**	400-1	400-1	400-1
				C-dn-17, 35	500-1	500-1	500-1½
				S-dn-17, 35	500-1	500-1	500-1
				C-dn-21	600-1	600-1	600-1½
				S-dn-21	600-1	600-1	600-1
				C-dn#	700-1½	700-1½	700-1½
				A-dn#	800-2	800-2	800-2

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished climb to 2500' straight ahead, then proceed to HOU VOR.
#Aircraft on any direct course to HOU VOR may descend to 750' from 5-mile radar fix.
**400-½ authorized for Runway No. 3, except for turbojet aircraft, with operative ALS and high-intensity runway lights.
*Radar control must provide 3-mile or 1000' vertical separation from the following obstructions:

Obstruction	*MSL Altitude*	*HOU VOR Radial*	*Distance NM*
Tower	1235'	159°	11.0
Do	1051'	240°	11.5
Do	751'	291°	11.4
Do	753'	309°	6.0
Do	1549'	238°	13.1

City, Houston; State, Tex.; Airport Name, International; Elev., 50'; Fac. Class. and Ident., Houston Radar; Procedure No. 1, Amdt. 11; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 10; Dated, 13 June 64

RADAR STANDARD INSTRUMENT APPROACH PROCEDURE—Continued

Transition				Ceiling and visibility minimums			
From—	To—	Course and distance	Minimum altitude (feet)	Condition	2-engine or less		More than 2-engine, more than 65 knots
					65 knots or less	More than 65 knots	
040°	185°	Within 20 miles	1900	Surveillance approach			
185°	040°	20 miles	1800	T-dn*	300-1	300-1	200-½
				C-dn#	500-1	500-1	500-1½
				S-dn-35, 9%$	400-1	400-1	400-1
				S-dn-17, 27$	400-1	400-1	400-1
				S-dn-3, 21	400-1	400-1	400-1
				A-dn	800-2	800-2	800-2

All bearings and distances are from radar antenna site with sector azimuths progressing clockwise. Radar control must provide 3-mile or 1000' vertical separation from following towers: 1349' 9.7 miles NE, 1340' 8.0 miles NE, 975' 9.2 miles NE, and 1333' 8.7 miles NE.

If visual contact not established upon descent to authorized landing minimums or if landing not accomplished Runway 27 and 21: Turn left, climb to 1900' on R-220 MEM VOR within 15 miles. Runway 3 and 9: Turn right, climb to 1900' on R-135 MEM VOR within 15 miles. Runway 35: Turn right, climb to 1900' on R-135 MEM VOR within 15 miles. Runway 17: Turn right, climb to 1900' on R-220 MEM VOR within 15 miles.

*AIR CARRIER NOTE: Takeoff with less than 200-½ not authorized on Runway 14-32.

#Radar approach not authorized on Runway 14-32.

$400-¾ authorized, except for turbojet aircraft, with operative high-intensity runway lights.

%400-½ authorized, except for turbojet aircraft, with operative ALS and high-intensity runway lights.

City, Memphis; State, Tenn.; Airport Name, Memphis Metropolitan; Elev., 331'; Fac. Class. and Ident., Memphis Radar; Procedure No. 1, Amdt. 10; Eff. Date, 5 Sept. 64; Sup. Amdt. No. 9; Dated, 11 Jan. 64

These procedures shall become effective on the dates specified therein.

(Secs. 307(c), 313(a), 601, Federal Aviation Act of 1958; 49 U.S.C. 1348(c), 1354(a), 1421; 72 Stat. 749, 752, 775)

Issued in Washington, D.C., on July 30, 1964.

G. S. MOORE,
Director, Flight Standards Service.

[F.R. Doc. 64-7868; Filed, Aug. 26, 1964; 8:45 a.m.]

Chapter V—National Aeronautics and Space Administration

PART 1245—PATENTS

Subpart 1—Patent Waiver Regulations

Subpart 1 is revised in its entirety as follows:

Sec.
1245.100 Scope of subpart.
1245.101 Definitions.
1245.102 Applicability.
1245.103 Policy.
1245.104 Waiver at the time of contract.
1245.105 Waiver after contract execution but prior to invention reporting.
1245.106 Waiver after reporting of inventions.
1245.107 Reservation of license.
1245.108 Additional reservations.
1245.109 Voidability of waivers.
1245.110 Content of petitions.
1245.111 Processing of petitions.
1245.112 License to contractor.
1245.113 Waiver of foreign rights.
1245.114 Filing of patent applications.

AUTHORITY: The provisions of this Part 1245 issued under 42 U.S.C. 2457(f).

§ 1245.100 Scope of subpart.

Section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457) provides that each invention determined by the Administrator of NASA to have been made in the performance of work under a NASA contract in the manner specified in the section becomes the exclusive property of the United States unless the rights of the United States are waived in accordance with the provisions of section 305(f) of the Act. Thus title to each such invention vests in the United States unless a waiver is granted. This subpart prescribes regulations under section 305(f) of the Act for waiver of rights of the United States to inventions. In all other instances, title will vest in the United States.

§ 1245.101 Definitions.

As used in this subpart:

(a) "Contract" means any agreement or arrangement, and any subcontract thereunder, with the National Aeronautics and Space Administration (NASA) or another Government agency on NASA's behalf, including grants made by NASA under 42 U.S.C. 1891–1893.

(b) "Contractor" means a party which has undertaken to perform work under a contract.

(c) "To bring to the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(d) "Invention" means an invention made in the manner specified in paragraph (1) or (2) of section 305(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(a)) in the performance of work under a contract.

§ 1245.102 Applicability.

This subpart applies to all inventions which may be conceived or first actually reduced to practice under conditions enabling the Administrator, NASA, to determine rights therein on behalf of the United States pursuant to section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457).

§ 1245.103 Policy.

In administering the provisions of section 305(f) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457 (f)), NASA follows the basic policy established by the President's memorandum on federal patent policy issued October 10, 1963 (28 F.R. 10943–10946).

§ 1245.104 Waiver at the time of contract.

(a) Subject to the limitations in paragraphs (b) and (c) of this section, title is hereby waived to all inventions made in the performance of work under a specific contract if the contracting officer makes in writing each of the six findings set forth in the following subparagraphs (1) through (6) at the time of or prior to execution of the contract.

(1) It is not a principal purpose of the contract to create, develop or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by Governmental regulations.

(2) It is not a principal purpose of the contract to explore into fields which directly concern the public health or public welfare.

(3) The contract is not in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, with respect to which the acquisition of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position.

(4) The contract is not for services of the contractor for (i) the operation of a Government owned research or production facility or (ii) coordinating and directing the work of others.

(5) The purpose of the contract is to build upon existing knowledge or technology to develop information, products, processes, or methods for use by the Government.

(6) The work called for by the contract is in a field of technology in which the contractor has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position) directly related to an area in which the contractor has an established nongovernmental commercial position.

(b) The waiver provided in paragraph (a) of this section shall apply only to inventions which are reported during the term of the contract under which they are made and designated at the time of reporting as being inventions upon which the contractor intends to file or has filed a United States patent application.

(c) The waiver set forth in paragraph (a) of this section is subject to the reservations and conditions set forth in §§ 1245.107–1245.109.

§ 1245.105 Waiver after contract execution but prior to invention reporting.

(a) Where the contracting officer does not make the finding described in § 1245.104(a) at the time of or prior to execution of a specific contract, a petition for waiver of title to all inventions which may be made in the performance of work under such contract may be submitted by the contractor within 60 days after the contract has been executed.

(b) Waiver of title to all inventions made in the performance of work under a specific contract will be granted prior to reporting thereof when the NASA Inventions and Contributions Board makes the findings set forth in § 1245.104(a).

(c) The NASA Inventions and Contributions Board may consider, but will not be bound by, any findings by the contracting officer differing from those set forth in § 1245.104(a).

§ 1245.106 Waiver after reporting of inventions.

(a) The provisions of this § 1245.106 apply to petitions for waiver of title to inventions which have been reported and which are not subject to the waiver of § 1245.104 or to a waiver granted pursuant to § 1245.105.

(b) Waiver of title after reporting of inventions will not be granted where the NASA Inventions and Contributions Board finds that the invention—

(1) Is directly related to a governmental program for creating, developing, or improving products, processes, or methods for use by the general public at home or abroad; or

(2) Will be required by governmental regulation for use by the general public at home or abroad; or

(3) Is directly related to the public health or public welfare; or

(4) Is in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the acquisition of exclusive rights might confer on the contractor a preferred or dominant position.

(c) Except for inventions falling within paragraph (b) of this section, waiver of title will be granted if the NASA Inventions and Contributions Board finds that—

(1) The contract under which the invention was made does not have as a principal purpose, is not in a field, and is not for the services specified in § 1245.104(a) (1) through (4) and waiver of title to the contractor would be an effective incentive to bring the invention to the point of practical application at the earliest practicable date; or

(2) Although the contract under which the invention was made has as a principal purpose, or is in a field, or is for the services specified in § 1245.104(a) (1) through (4)—

(i) The making of the invention was not a primary object of the contract, and

(ii) Waiver of title is a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application.

§ 1245.107 Reservation of license.

Each waiver of title shall be subject to the reservation of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of the invention throughout the world by or on behalf of the United States or any agency thereof, State, or domestic municipal government, or any foreign government pursuant to any existing or future treaty or agreement with the United States.

§ 1245.108 Additional reservations.

(a) Each waiver of title shall be subject to the reservation, by the Administrator, NASA, of the right to require the granting of a license to any applicant on a nonexclusive, royalty-free basis unless:

(1) The contractor, his licensee, or his assignee has taken effective steps within three years after a patent issues on the invention to bring the invention to the point of practical application or has made the invention available for licensing royalty-free or on terms that are reasonable in the circumstances; or

(2) The contractor shows cause why he should retain the full benefits of waiver for a further period of time.

(b) Each waiver of title shall be subject to the reservation, by the Administrator, NASA, of the right to require the granting of a license to any applicant royalty-free or on terms that are reasonable in the circumstances for such practice of the invention as may be appropriate to satisfy the requirements which may be made by governmental regulations for public use of the invention or as may be necessary to fulfill health needs.

(c) Before either of the rights set forth in paragraphs (a) and (b) above is exercised, notice shall be given the contractor that he may show cause before the NASA Inventions and Contributions Board why he should not be required to grant such a license.

§ 1245.109 Voidability of waivers.

(a) Each waiver of title shall be voidable at the option of the Administrator, NASA, unless the contractor shall:

(1) File within eight months from the date of reporting of an invention subject to the waiver of § 1245.104 or a waiver pursuant to § 1245.105 or eight months from the proffer of waiver pursuant to § 1245.106, an application for United States Letters Patent disclosing and claiming the invention, and include within the first paragraph of the specification of such application and any patent issuing thereon the following statement:

> The invention described herein was made in the performance of work under a NASA contract and is subject to the provisions of section 305 of the National Aeronautics and Space Act of 1958, Public Law 85–568 (72 Stat. 435; 42 U.S.C. 2457).

(2) Furnish to the Administrator, NASA, a copy of each patent application, domestic or foreign, filed on such invention together with identifying serial number and filing date promptly upon receipt thereof;

(3) Execute and furnish to the Administrator, NASA, instruments fully confirmatory of the rights herein reserved by the Government;

(4) In the event the contractor elects not to continue prosecution of any application filed on such invention, notify the Administrator, NASA, within sufficient time to allow assumption of prosecution by the Government, and deliver to the Administrator, NASA, such duly executed instruments as are necessary to vest in the Administrator title thereto, including an instrument of assignment to such patent application;

(5) Convey to the Administrator, NASA, on written request, the contractor's entire right, title and interest in any foreign country in which the contractor has not filed an application on said invention within—

(i) Nine months from the date a corresponding U.S. application is filed;

(ii) Six months from the date permission is granted to file foreign applications where such filing has been prohibited for security reasons; or

(iii) Such longer periods as may be expressly approved by the Administrator, NASA.

(6) Grant any license which the Administrator, NASA, may require to be granted pursuant to § 1245.108.

(7) Report, upon written request not more often than annually, the commercial use that is being made or is intended to be made of the invention.

§ 1245.110 Content of petitions.

(a) After the signing of the relevant contract or subcontract, or after the reporting of a given invention, a petition for waiver may be filed. All petitions for waiver of title shall be addressed to the Administrator, NASA, and shall include:

(1) An identification of the pertinent contract by number and date;

(2) A copy of the statement of work of the contract;

(3) A specification of the kind of waiver requested and of the paragraph or paragraphs hereof under which the petitioner seeks to qualify for waiver; and

(4) The signature of the petitioner or his authorized representative.

(b) Petitions for waiver under § 1245.105. In addition to the information specified in paragraph (a) of this section,

petitions for waiver prior to invention reporting shall state facts tending to show that the contract is of a type specified in § 1245.104(a) and shall relate such facts to the statement of work.

(c) Petitions for waiver under § 1245.-106: A separate petition shall be submitted for each reported invention. In addition to the information specified in paragraph (a) of this section, such petition shall include:

(1) The full name of all inventors;

(2) A concise description of the invention, pointing out the relation of the invention to the known prior art, isolating what the petitioner regards as new, and relating the invention to the work required to be performed under the contract;

(3) A statement whether a patent application has been filed on the invention, together with a copy of such application if filed;

(4) If a patent application has not been filed, any information which may indicate a potential statutory bar to the filing of a patent application under 35 U.S.C. 102 (1958), or a statement that no bar is known to petitioner to exist; and

(5) A statement of facts tending to show that the invention qualifies for waiver of title under § 1245.106.

§ 1245.111 Processing of petitions.

(a) *Submission.* Petitions may be submitted directly to the Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C., 20546, or through the contracting officer to the Board.

(b) *Noticed of proposed recommendation.* The NASA Inventions and Contributions Board will notify the petitioner:

(1) Whether it proposes to recommend to the Administrator, NASA, that the petition be—

(i) Granted in the extent requested;

(ii) Granted in an extent different from that requested; or

(iii) Denied.

(2) Of any conditions on which it proposes to recommend the granting of waiver;

(3) Of the reasons for any recommended action adverse to or different from the waiver requested by the petitioner; and

(4) That the petitioner may, within such period as the NASA Inventions and Contributions Board may set, but not less than 30 days, request either an oral hearing before or reconsideration by the NASA Inventions and Contributions Board.

(c) *Hearing.* If the petitioner requests a hearing within the time set pursuant to paragraph (b)(4) of this section, the NASA Inventions and Contributions Board will set a place and date for such hearing and notify the petitioner.

(d) *Reconsideration.* If the petitioner requests reconsideration within the time set pursuant to paragraph (b)(4) of this section, the NASA Inventions and Contributions Board will reconsider the petition, together with any additional material submitted by the petitioner during the period set for requesting reconsideration.

(e) *Transmittal to Administrator.* (1) If the petitioner does not request a hearing or reconsideration during the period set for such action, or informs the NASA Inventions and Contributions Board that a hearing or reconsideration will not be requested, the Board shall transmit the petition, its findings of fact with respect thereto, and its recommendation to the Administrator, NASA.

(2) After a hearing or reconsideration as provided in paragraph (c) or (d) of this section, the NASA Inventions and Contributions Board shall transmit to the Administrator, NASA, the petition, the record of proceedings, its findings of fact with respect to the request for waiver, and its recommendation.

(f) *Notice of denial.* In the event of denial of the petition by the Administrator, NASA, a written notice of such denial will be given promptly to the petitioner. The written notice will be accompanied with a statement of the grounds for the denial.

§ 1245.112 License to contractor.

There is hereby granted to any contractor reporting an invention an irrevocable, nonexclusive, royalty-free license for the practice of such invention throughout the world, together with the right to grant sublicenses of the same scope, to the extent the contractor was legally obligated to do so at the time the contract was awarded. Such license and right is nontransferable except to the successor of that part of the contractor's business to which the invention pertains.

§ 1245.113 Waiver of foreign rights.

Upon request, waiver of title to any identified invention will be granted in countries other than the United States in which the Administrator, NASA, does not desire to file an application for patent for such invention, subject to the reservation of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of the invention throughout the world by or on behalf of the United States or any agency thereof any foreign government pursuant to any existing or future treaty or agreement with the United States, and subject to the conditions set forth in § 1245.109(a)(2) through (5) and (7).

§ 1245.114 Filing of patent applications.

In order to protect adequately the interests of the Government and the contractor in inventions, contractors are encouraged to file patent applications prior to final disposition of petitions for waiver of title. If a petitioner for waiver of title files a United States patent application disclosing and claiming the invention during the pendency of the petition, NASA will reimburse the petitioner for the reasonable costs of filing and such prosecution as may have ensued in the event that the petition is ultimately denied and the petitioner assigns the application to the United States as represented by the Administrator, NASA.

Effective date. The provisions of this subpart are effective September 28, 1964, and supersede NASA Patent Waiver Regulations of October 29, 1959 (24 F.R. 8788–8790) as amended August 28, 1962 (27 F.R. 8584) as of September 28, 1964, except that (a) any petition pending September 28, 1964, will be considered under the latter regulations unless withdrawn by the petitioner and (b) any petition received prior to October 20, 1964, will be considered under the latter regulations if specifically requested by the petitioner at the time of submission. Any petitions received on and after October 20, 1964, will be considered under the new revised Patent Waiver Regulations.

JAMES E. WEBB,
Administrator.

[F.R. Doc. 64–8656; Filed, Aug. 26, 1964; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS

Chapter 18—National Aeronautics and Space Administration

PART 18–9—PATENTS, DATA, AND COPYRIGHTS

Part 18–9 revised in its entirety as follows:

Sec.

AUTHORITY: The provision of this Part 18-9 issued under 42 U.S.C. 2473(b)(1).

§ 18-9.000 Scope of part.

This part sets forth policies and procedures pertaining to innovations, inventions, patents, data, and copyrights in connection with the procurement of supplies and services.

Subpart 18-9.1—Innovations, Inventions, and Patents

§ 18-9.100 Scope of subpart.

(a) This subpart prescribes contract clauses and instructions which define and implement the policy of NASA with respect to:

(1) Inventions and innovations made in the performance of work under contract with NASA;

(2) Patent and copyright infringement liability of the United States resulting from work performed under contract with NASA;

(3) Security requirements covering patent applications containing classified subject matter; and

(4) Patent and copyright royalties payable in connection with the performance of contracts with NASA.

(b) The Office of General Counsel, NASA Headquarters, should be consulted for policies, instructions, and contract clauses concerning innovations, inventions, patents, data, and copyrights for use in contracts which are to be performed outside the United States, its possessions, and Puerto Rico.

§ 18-9.101 Property rights in inventions made in the performance of work under NASA contracts.

§ 18-9.101-1 General.

(a) Except for any invention made in the performance of any work under any contract with NASA, it is the policy of NASA to pay reasonable compensation for the acquisition of rights in any invention covered by a valid patent issuing thereon and enforceable against the Government. Such rights in "background" patents will not be acquired in contracts for supplies and services except by specific negotiation for such rights, unless the patents and the rights thereunder are listed and priced as a separate contract item. Questions of validity, enforceability and infringement of patents will be determined by the Office of the General Counsel, NASA Headquarters.

(b) It is also the policy of NASA to refer to the NASA Inventions and Contributions Board for consideration for an award each invention made by an employee of a NASA contractor or subcontractor to which NASA has acquired title and with respect to which an application for patent by NASA has been filed. In addition, the Administrator, upon his own initiative, may make monetary award on any such invention in such amount and upon such terms as he shall determine to be warranted.

(c) It is the policy of NASA to require reports of innovations and inventions which are made in the performance of work done under NASA contracts in order to protect the Government's interest therein and to provide for the widest practicable and appropriate dissemination thereof to the scientific and industrial communities.

§ 18-9.101-2 Use of new technology and property rights in inventions clauses.

Except as provided in § 18-9.101-5, the "New Technology" clause set forth in § 18-9.101-4 will be included in every NASA contract (made by or on behalf of NASA) or modification thereof where the performance of research, experimental, design, engineering or developmental work is contemplated. As illustrative, but without limitation, contracts for the following purposes are considered to contemplate work of the type described above:

(a) Conduct of basic or applied research;

(b) Design, or development, or manufacture for the first time of any machine, article of manufacture, or composition of matter to satisfy NASA specifications or special requirements;

(c) Development of any process or technique for attaining a NASA objective not readily attainable through the practice of a previously developed process or technique; or

(d) Testing or experimenting with a machine, process, or technique to determine whether the same is suitable or could be made suitable for a NASA objective.

Architect-Engineer (A-E) contracts and construction contracts which require only "state of the art" or "brick and mortar" construction need not include the clause in § 18-9.101-4.

§ 18-9.101-3 Special instructions for waived inventions.

(a) The "New Technology" clause set forth in § 18-9.101-4 contains a Section IV pertaining to "Waived Inventions." When the conditions set forth in this § 18-9.101-3 are met, Section IV will be made operative to implement the waiver of title to inventions made in the performance of certain contracts and subcontracts made by the Administrator and published in the NASA Patent Waiver Regulations (14 CFR § 1245.104). Section IV, although an integral part of the "New Technology" clause, is not applicable to a prime contract or subcontract containing the clause except under the conditions set forth in paragraph (b) of this section and if there is included in the Schedule of the contract or subcontract the following statement:

The Contracting Officer has made the findings required for Section IV of the New Technology clause to be applicable to this contract. (September 1964)

(b) The contracting officer shall not insert the statement set forth in paragraph (a) of this section in any contract, or approve its insertion in any subcontract, unless at the time of or prior to the execution of the contract or subcontract, he shall have made in writing each of the six findings set forth below with respect to the contract or subcontract concerned. As used in this paragraph (b), the term "contract" includes "subcontract of any tier."

(1) It is not a principal purpose of the contract to create, develop or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations.

(2) It is not a principal purpose of the contract to explore into fields which directly concern the public health or public welfare.

(3) The contract is not in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, with respect to which the acquisition of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position.

(4) The contract is not for services of the contractor for (i) the operation of a Government owned research or production facility; or (ii) coordinating and directing the work of others.

(5) The purpose of the contract is to build upon existing knowledge or technology to develop information, products, processes, or methods for use by the Government.

(6) The work called for by the contract is in a field of technology in which the contractor has acquired technical competence (demonstrated by factors such as knowhow, experience, and patent position) directly related to an area in which the contractor has an established nongovernmental commercial position.

(c) These special instructions for waived inventions are designed to afford an opportunity to settle questions of rights in inventions at the time of contracting, in cases where the facts are readily determinable. However, the matter is not to be the subject of negotiation. The contracting officer shall consider and evaluate the facts readily available to him, including any facts submitted by the contractor or subcontractor who is awarding the subcontract concerned, if any, in order to determine whether the findings set forth in paragraph (b) of this section can be made.

He is not, however, obliged to conduct independent investigations where to do so would unduly delay negotiation or execution of the contract or subcontract. However, he should avail himself of patent, technical or other counsel, as necessary, to assist him in evaluating the facts and making the findings required by paragraph (b) above. Where the necessary information is not readily available, the contracting officer may simply decide not to consider the matter further. Such a decision, or a finding differing from those set forth in paragraph (b) of this section, may be made a part of the prime contract file. In cases where the finding set forth in paragraph (b) of this section is not made, the contractor or subcontractor may, within 60 days after the date of execution of the contract or subcontract concerned, petition for waiver of title as provided in the NASA Patent Waiver Regulations (14 CFR § 1245.105).

(d) If the contracting officer makes the findings specified in paragraph (b) of this section with respect to the prime contract or any subcontract of any tier, he shall:

(1) Make such findings a part of the prime contract file;

(2) Furnish a copy to the contractor and subcontractor, if any, concerned;

(3) Furnish a copy to the patent representative appointed pursuant to § 18–9.150 of these regulations;

(4) Include the statement set forth in paragraph (a) of this section in the Schedule of the contract, or in the case of subcontracts of any tier, require the contractor to include the statement in any subcontract with respect to which the contracting officer has made such findings; and

(5) Furnish a copy of the findings together with a copy of the statement of work of the contract or subcontract concerned to the NASA Invention and Contributions Board, NASA Headquarters.

(e) It will be noted from Section IV of the "New Technology" clause and from the NASA Patent Waiver Regulations that, although the title to inventions may have been waived to a contractor or subcontractor, such waiver is subject to a number of conditions, reservations, and obligations on the part of the contractor or subcontractor concerned.

§ 18–9.101–4 "New technology" clause.

NEW TECHNOLOGY (SEPTEMBER 1964)

The "New Technology" clause is comprised of five sections; Section I—Definitions, Section II—Reporting and Subcontracts, Section III—Rights, Section IV—Waived Inventions and Section V—Withholding; the clause paragraphs are lettered consecutively throughout the sections.

I—DEFINITIONS

(a) As used in this clause, the following terms shall have the meanings set forth below:

(i) "Reportable item" means any invention, discovery, improvement or innovation, whether or not the same is susceptible of protection under the United States patent laws, which is made in the performance of any work done upon an understanding in writing that this contract would be awarded or made in the performance of any work which is reimbursable under the clause, if any, in this contract providing for reimbursement of costs incurred prior to the date of this contract;

(ii) "Made" means conceived or first actually reduced to practice, and "making" means conceiving or first actually reducing to practice;

(iii) "Invention" means any reportable item which, in the opinion of the Administrator, falls within a statutory class of patentable subject matter (35 U.S.C. 101, 161, and 171);

(iv) "Person" means any individual, partnership, group, corporation, association, institution or other entity;

(v) When this clause is included in any subcontract, "contractor" means subcontractor and "contract" means subcontract; and

(vi) "Administrator" means the Administrator of NASA or his duly authorized representative.

II—REPORTING AND SUBCONTRACTS

(b) The Contractor shall furnish to the Contracting Officer a written report concerning each reportable item promptly upon the making thereof. Such report shall include such technical detail as is necessary to identify and to describe fully the nature, purpose, operation and physical (electrical, chemical, etc.) characteristics of the reportable item.

(c) In addition to the reports required in paragraph (b) above, the Contractor shall conduct frequent periodic reviews of the work performed by the Contractor to assure that all reportable items have been reported to the Contracting Officer. Within one month following each annual anniversary date of this contract, until completion of the contract work, and within one month following completion of the contract work, the Contractor shall furnish to the Contracting Officer a written summary of the review activities performed, including a report as required by paragraph (b) above for each reportable item not previously reported, or certifying that there are no reportable items.

(d) (1) The Contractor shall include Sections I through IV (paragraphs (a) through (p)) of this clause in each subcontract he awards under this contract where the performance of research, experimental, design, engineering, or developmental work is contemplated and shall set forth in each subcontract the identification of the prime contract and the identification and mailing address of the Contracting Officer.

(2) As to each subcontract of any tier for which the Contracting Officer makes the findings referred to in paragraph (k) of this clause, the Contractor shall include in the Schedule or elsewhere in such subcontract the statement set forth in said paragraph (k).

(3) In the event of refusal by a subcontractor to accept any of the provisions of this clause other than paragraph (q), the Contractor shall promptly notify the Contracting Officer of such refusal and shall not execute the subcontract in question until provisions have been approved in writing by the Contracting Officer for inclusion in said subcontract.

(4) The Contractor shall furnish promptly to the Contracting Officer a statement listing each subcontract he awards under this contract of over fifty thousand dollars ($50,000) of the type described in paragraph (d) (1) above, stating the name and address of the subcontractor, describing the work to be performed, stating the estimated cost, and giving the estimated completion date of the subcontract. Within one month following each annual anniversary date of this contract, until completion of the contract work, and within one month following completion of the contract work, the Contractor shall furnish to the Contracting Officer a written report listing each such subcontract not previously reported or certifying that no such subcontracts were awarded during the reporting period.

(e) With respect to each subcontract awarded by the Contractor of over fifty thousand dollars ($50,000) of the type described in paragraph (d) (1) above, the Contractor shall, within one month following completion of the work under such subcontract:

(i) Obtain from an official having authority to execute such subcontract on behalf of the subcontractor a letter certifying compliance by the subcontractor with the paragraphs of this "New Technology" clause included in such subcontracts; and

(ii) Submit a copy of such letter directly to the Contracting Officer upon receipt from the subcontractor.

III—RIGHTS

(f) (1) An invention reported under this clause shall be presumed to have been made in the manner specified in paragraph (1) or (2) of section 305(a) of the National Aeronautics and Space Act of 1958 [42 U.S.C. 2457(a) (1958)] (hereinafter called "the Act").

(2) The presumption of paragraph (f) (1) above shall be conclusive unless the Contractor at the time of reporting the invention submits to the Contracting Officer a written statement, containing supporting details, demonstrating that the invention was not made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act.

(3) Regardless of whether the Contracting Officer has considered the matter, if the Schedule of this contract does not include the statement set forth in paragraph (k) below, the Contractor may, within 60 days from the date of execution of this contract, petition the Administrator for waiver of title to inventions, pursuant to 14 CFR § 1245.105, or, after reporting an invention, may petition for waiver of title to that invention, pursuant to 14 CFR § 1245.106.

(g) Regardless of whether title to a given invention would otherwise be subject to a waiver or is the subject of a petition for waiver, the Contractor may nevertheless file the statement described in paragraph (f) (2) above. The Administrator will review the information furnished by the Contractor in any such statement and any other available information relating to the circumstances surrounding the making of the invention and will notify the Contractor whether the Administrator has determined that the invention was made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act.

(h) With respect to each invention which becomes the exclusive property of the United States, the Contractor shall:

(1) Inform the Contracting Officer at the earliest practicable date of any public use or sale by the Contractor of the invention or of any publication by the Contractor describing the invention; and

(2) Furnish, upon written request by the Contracting Officer, such full and complete technical and other information available to the Contractor as is necessary for the preparation of a patent application and for prosecution of such patent application, and, in addition, shall execute or endeavor to secure execution of all lawful documents and instruments determined by the Administrator to be necessary for the preparation and prosecution of applications for Letters Patent covering the invention.

(i) Regardless of any other disposition of rights in the invention, in the case of each reported invention which is determined to have been made in the manner specified in paragraph (1) or (2) of section 305(a) of the Act, 14 CFR § 1245.112 provides that the Contractor is granted a nonexclusive, irrevocable, royalty-free license to practice such invention together with the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. Such

license and right will be nontransferable except to a successor of that part of the Contractor's business to which the invention pertains.

(j) (1) The Government may duplicate, use and disclose in any manner and for any purpose whatsoever, and have others do so, all reports furnished pursuant to paragraphs (b), (c), and (h) (2) of this clause.

(2) Nothing contained in this "New Technology" clause shall be deemed to grant any license under any invention as to which rights of the Government are not expressly obtained pursuant to the Act, as implemented by this clause.

IV—WAIVED INVENTIONS

(k) This section IV (paragraphs (k) through (p)) of this clause shall be applicable to this contract only if the Contracting Officer has made the findings set forth in NASA Patent Waiver Regulations 14 CFR § 1245.104, which are also set forth in paragraph 9.101–3(b) of the NASA Procurement Regulations, and if there is included in the Schedule of this contract the following statement:

"The Contracting Officer has made the findings required for Section IV of the New Technology clause to be applicable to this contract."

(l) When this section is applicable to the contract, as provided in paragraph (k) above, the title to any invention made in the performance of this contract is subject to the waiver granted by the Administrator in 14 CFR § 1245.104 and to the conditions, reservations and obligations contained in paragraphs (m), (n) and (o) below.

(m) With respect to any particular invention, the waiver referred to in paragraph (l) above is subject to the following conditions:

(1) That the Contractor report the invention during the term of this contract;

(2) That the invention is determined to have been made in the manner specified in paragraph (1) or (2) of section 305(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(a)) in the performance of work under this contract; and

(3) That the invention is designated at the time of reporting as being an invention upon which the Contractor intends to file or has filed a United States patent application.

(n) With respect to any particular invention, the waiver referred to in paragraph (l) above is subject to the following reservations:

(1) The reservation of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of the invention throughout the world by or on behalf of the United States or any agency thereof, state, or domestic municipal government, or any foreign government pursuant to any existing or future treaty or agreement with the United States;

(2) The reservation by the Administrator of the right to require the granting of a license to any applicant on a nonexclusive, royalty-free basis unless the Contractor, his licensee, or his assignee has taken effective steps within three years after a patent issues on the invention to manufacture the invention in the case of a composition or product, to practice the invention in the case of a process, or to operate the invention in the case of a machine, and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public, or has made the invention available for licensing royalty-free or on the terms that are reasonable in the circumstances, or the Contractor shows cause why he should retain the full benefits of waiver for a further period of time; and

(3) The reservation by the Administrator of the right to require the granting of a license to any applicant royalty-free or on terms that are reasonable in the circumstances for such practice of the invention as may be appropriate to satisfy the requirements which may be made by governmental regulations for public use of the invention, or as may be necessary to fulfill health needs, or for other public purposes, if any, stipulated in the Schedule of this contract.

(o) With respect to any particular invention, the waiver referred to in paragraph (l) above is voidable at the option of the Administrator unless the contractor shall:

(1) File within eight months from the date of reporting of such an invention, an application for United States Letters Patent disclosing and claiming the invention, and include within the first paragraph of the specification of such application and any patent issuing thereon the following statement:

The invention described herein was made in the performance of work under a NASA contract and is subject to the provisions of Section 305 of the National Aeronautics and Space Act of 1958, Public Law 85–568 (72 Stat. 435; 42 U.S.C. 2457).

(2) Furnish to the Administrator a copy of each patent application, domestic or foreign, filed thereon, together with identifying serial number and filing date promptly upon receipt thereof;

(3) Execute and furnish to the Administrator instruments fully confirmatory of the rights herein reserved by the Government;

(4) In the event the Contractor elects not to continue prosecution of any application filed thereon, notify the Administrator within sufficient time to allow assumption of prosecution by the Government, and deliver to the Administrator such duly executed instruments as are necessary to vest in the Administrator title thereto, including an instrument of assignment to such application;

(5) Convey to the United States Government, on written request, the Contractor's entire right, title and interest in any foreign country in which the Contractor has not filed an application on said invention within—

(i) Nine months from the date a corresponding U.S. application is filed;

(ii) Six months from the date permission is granted to file foreign applications where such filing has been prohibited for security reasons; or

(iii) Such longer periods as may be expressly approved by the Administrator;

(6) Grant any license which the Administrator may require to be granted pursuant to paragraph (n) (2) or (3) above.

(7) Report, upon written request not more often than annually, the commercial use that is being made or is intended to be made of the invention.

(p) Before either of the rights set forth in paragraph (n) (2) or (3) above are exercised, notice shall be given to the Contractor that he may show cause before the Inventions and Contributions Board of NASA why he should not be required to grant such a license.

V—WITHHOLDING

(q) (1) Except as provided in subparagraphs (3) and (4) below, if the Contractor fails to comply with the provisions of this clause after receipt of a written decision of the Contracting Officer, pointing out wherein the Contractor has failed to comply and setting a time limit for compliance, there shall be withheld from payment, unless such failure has been corrected within the time limit set, either five percent (5%) of the amount of this contract as from time to time amended, or fifty thousand dollars ($50,000), whichever is less.

(2) Without regard to whether a written decision as described in subparagraph (1) above has been issued, after payment of eighty-five percent (85%) of the amount of this contract, as from time to time amended, payment shall be withheld until a reserve of either five percent (5%) of such amount, or fifty thousand dollars ($50,000), whichever is less, shall have been set aside, such reserve or balance to be retained until the Contractor shall have complied with the provisions of this clause, as well as with such written decision or decisions as may have been issued pursuant to subparagraph (1) above and not withdrawn or successfully challenged on appeal pursuant to the "Disputes" clause.

(3) The maximum amount which may be withheld under this paragraph (q) shall not exceed five percent (5%) of the amount of this contract or fifty thousand dollars ($50,000), whichever is less. If this contract is a no fee contract with a contractor other than an educational institution, the amount which may be withheld shall not exceed one percent (1%) of the amount of the contract or fifty thousand dollars ($50,000), whichever is less. No amount shall be withheld pursuant to this Section V so long as an equivalent amount is being withheld under other provisions of this contract.

(4) The withholding provisions of subparagraphs (1) through (3) of this paragraph (q) do not apply to the provisions of paragraph (e) or Section IV of this clause, or to no fee contracts with an educational institution. Nothing herein shall be interpreted as prohibiting the Contractor from including a withholding provision in his subcontracts.

§ 18–9.101–5 Property rights in inventions clause.

The clause set forth below shall be used in contracts for basic or applied scientific research at nonprofit institutions of higher education or at nonprofit institutions whose primary purpose is the conduct of research.

PROPERTY RIGHTS IN INVENTIONS (NOVEMBER 1962)

This contract and all subcontracts hereunder are subject to Section 305 of the National Aeronautics and Space Act of 1958 relating to property rights in inventions. The term "invention" includes any invention, discovery, improvement, or innovation. Any invention made in performance of work under this contract shall be presumed to have been made under the conditions described in paragraphs (1) or (2) of Section 305(a) of the Act. The Contractor shall furnish to the Contracting Officer a written report containing full and complete technical information concerning any invention made in the performance of any work under this contract promptly upon the making of such invention and shall require all subcontractors to do so. Upon written request of the Contracting Officer, the Contractor shall furnish additional information available to him, and shall secure the execution of such documents as may be necessary to enable the Administrator, NASA, to file and prosecute patent applications on any such invention. Prior to completion of this contract, the Contractor shall furnish to NASA a report as to whether or not any inventions of the type referred to herein have been made in the performance of work under this contract.

§ 18–9.101–6 Contracts relating to atomic energy.

Whenever any contract is entered into with or for the benefit of the Atomic Energy Commission, the Office of General Counsel, NASA Headquarters, shall be consulted for policies, instructions and contract clauses relating to innovations, inventions, patents, data and copyrights.

§ 18–9.101–7 Patent rights under product improvement programs or independent research and development programs.

Where NASA under its established procedures provides, as an item in the computation of overhead, financial support to (i) a contractor's product improvement program, or (ii) a contractor's independent research and development program, the inventions resulting from such programs are not subject to the "New Technology" or the "Property Rights in Inventions" clauses merely by virtue of the provision of such financial support. The clause set forth below may be included in the Schedule of a cost-reimbursement type contract wherein NASA is providing such support to the contractor's product improvement program or independent research and development program.

INVENTIONS MADE UNDER CONTRACTOR'S INDEPENDENT RESEARCH AND DEVELOPMENT PROGRAMS (AUGUST 1963)

Any invention made in the performance of any work by the Contractor under the Contractor's own product improvement program, or the Contractor's independent research and development program, even though supported by an allowance of costs for such program as a part of the overhead costs hereof, will not be subject to the "New Technology" clause or the "Property Rights in Inventions" clause (whichever is included in this contract) unless said work is identified in writing as being required in the performance of this contract.

§ 18–9.102 [Reserved]

§ 18–9.103 Authorization and consent.

(a) Under 28 U.S.C. 1498, any suit for infringement of a patent or copyright based on the manufacture or use of a patented invention or copying of copyrighted material for the Government by a contractor or by a subcontractor (including lower tier subcontractors) can be maintained only against the Government in the Court of Claims, and not against the contractor or subcontractor, in those cases where the Government has authorized or consented to such infringement. Accordingly, in order that work by a contractor or subcontractor under a Government contract may not be enjoined by reason of patent infringement, authorization and consent will be given as herein provided. The "Authorization and Consent" clause set forth below shall be included in all contracts for supplies (including construction work), and construction contracts, as follows:

AUTHORIZATION AND CONSENT (JANUARY 1963)

The Government hereby gives its authorization and consent (without prejudice to any rights of indemnification) for all use and manufacture, in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower-tier subcontract), of any invention described in and covered by a patent of the United States (i) embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract, or (ii) utilized in the machinery, tools, or methods the use of which necessarily results from compliance by the Contractor or the using subcontractor with (a) specifications or written provisions now or hereafter forming a part of this contract, or (b) specific written instructions given by the Contracting Officer directing the manner of performance.

(b) Since greater latitude in the use of patented inventions is to be allowed in a contract for research, experimental, design, engineering or developmental work than in a contract for supplies, the "Authorization and Consent" clause set forth below shall be used in contracts, including Facilities contracts, involving such work.

AUTHORIZATION AND CONSENT (SEPTEMBER 1962)

The Government hereby gives its authorization and sent for all use and manufacture of any invention described in and covered by a patent of the United States in the performance of this contract or any part hereof or any amendment hereto or any subcontract hereunder (including any lower tier subcontract).

§ 18–9.104 Patent indemnification of Government by contractor.

(a) NASA's mission is directed to:

(1) Research into the solution of problems of flight within and outside the atmosphere;

(2) The development, construction, testing, and operation for research purposes of aeronautical and space vehicles; and

(3) Such other activities as may be required for the exploration of space.

A patent indemnity clause is not appropriate in contracts for experimental, developmental, or research work.

(b) When it is known that an item being procured is protected, or probably will be protected, by a United States patent or patents, the inclusion of a "Patent Indemnity" clause may be appropriate. In such case, where the patent owner informs a prospective bidder or otherwise contends that the item being procured would infringe his patent or patents, the patent indemnity clause set forth below, limited to the specifically designated patents in question, may be included in the contract if its use is approved by Patent Counsel.

PATENT INDEMNITY (AUGUST 1963)

(a) If the amount of this contract is in excess of five thousand dollars ($5,000), the Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of the United States letters patent designated in paragraph (b) below and the United States letters patents which may mature on the patent applications, if any, designated in paragraph (b) below, arising out of the manufacture or delivery of supplies or out of construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work. The foregoing indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply if: (i) the infringement results from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor; or (ii) the infringement results from the addition to, or change in, the supplies furnished or construction work performed, which addition or change was made subsequent to delivery or performance by the Contractor; or (iii) the claimed infringement is settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

(b) This "Patent Indemnity" clause is applicable to such United States patents and patent applications as are next designated (*here designate the patents or patent applications*).

§ 18–9.105 Notice and assistance.

The Government should be notified by the contractor of all claims of infringement in connection with the performance of a contract which come to the contractor's attention, especially where the Government has given its authorization and consent for the use and manufacture of any patented invention in the performance of the contract or where the contract calls for the delivery to the Government of supplies, models, or prototypes. The contractor should also assist the Government, to the extent of evidence and information in the possession of the contractor, in connection with any suit against the Government, or any claim against the Government made before suit has been instituted, on account of any alleged patent or copyright infringement arising out of or resulting from the performance of the contract. Accordingly, the "Notice of Assistance Regarding Patent and Copyright Infringement" clause set forth below shall be included in contracts in excess of $10,000.

NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (SEPTEMBER 1962)

The provisions of this clause shall be applicable only if the amount of this contract exceeds ten thousand dollars ($10,000).

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any suit against the Government, or any claim against the Government made before suit has been instituted, on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government, upon request, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except in those cases in which the Contractor has agreed to indemnify the Government against the claim being asserted.

§ 18–9.106 Processing of infringement claims.

Any claim for infringement of a patent or a copyright should be addressed to or brought to the attention of the Office of General Counsel, NASA Headquarters, and should identify (i) the United States copyright, patent, or patent application, (ii) the interest of the claimant, and (iii) the acts alleged to constitute the infringement.

§ 18–9.107 Classified contracts.

Unauthorized disclosure of classified subject matter, whether in patent applications or resulting from an issuance of a patent, may be a violation of 18 U.S.C. 791 et seq. (Espionage and Censorship) and related statutes and may be contrary to the interest of national security. Accordingly, the "Filing of Patent Applications" clause set forth below shall be included in every classified contract and in every unclassified contract which covers or is likely to cover classified subject matter.

FILING OF PATENT APPLICATIONS (SEPTEMBER 1962)

(a) Before filing or causing to be filed a patent application disclosing any subject matter of this contract, which subject matter is classified "Secret" or higher, the Contractor shall, citing the thirty (30) day provision below, transmit the proposed application to the Contracting Officer for determination whether, for reasons of national security, such application should be placed under an order of secrecy or sealed in accordance with the provisions of 35 U.S.C. 181–188 or the issuance of a patent should be otherwise delayed under pertinent statutes or regulations; and the Contractor shall observe any instructions of the Contracting Officer with respect to the manner of delivery of the patent application to the United States Patent Office for filing, but the Contractor shall not be denied the right to file such patent application. If the Contracting Officer shall not have given any such instructions within thirty (30) days from the date of mailing or other transmittal of the proposed application, the Contractor may file the application.

(b) The Contractor shall furnish to the Contracting Officer, at the time of or prior to the time when the Contractor files or causes to be filed a patent application disclosing any subject matter of this contract, which subject matter is classified "Confidential," a copy of such application for determination whether, for reasons of national security, such application should be placed under an order of secrecy or the issuance of a patent should be otherwise delayed under pertinent statutes or regulations.

(c) In filing any patent application coming within the scope of this clause, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter.

§ 18–9.108 Payment of royalties.

The Government has acquired license and other rights under a large number of inventions as the result of Government-sponsored research and development. In order that the Government may determine whether the approval as an item of allowable cost of the payment of royalties by the contractor under license agreement is consistent with the rights which the Government has acquired, these payments of royalties by the contractor are allowable only to the extent authorized by the contracting officer. Accordingly, the "Payment of Royalties" clause set forth in § 18–9.108–1 shall be included in all NASA cost-reimbursement type contracts. This clause may be omitted from contracts with members of the Manufacturers Aircraft Association and the clause set forth in § 18–9.108–2 substituted therefor.

§ 18–9.108–1 Payment of royalties—standard clause.

PAYMENT OF ROYALTIES (SEPTEMBER 1962)

Payment by the Contractor of any sum for royalties or patent rights not included in the ordinary purchase price of supplies, materials, or components shall not constitute items of Allowable Cost hereunder, unless and until approved by the Contracting Officer. Reimbursement to the Contractor on account of any such payments shall not be construed as an admission by the Government of the enforceability, validity or scope of, or title to any of the patents involved, nor shall any such reimbursement constitute a waiver of any rights or defenses respecting such patents.

§ 18–9.108–2 Payment of royalties—manufacturers aircraft association deviation.

PAYMENT OF ROYALTIES (SEPTEMBER 1962)

Payment by the Contractor of any sum for royalties or patent rights not included in the ordinary purchase price of standard commercial supplies shall not constitute items of Allowable Cost hereunder, unless and until approved by the Contracting Officer. Reimbursement to the Contractor on account of any such payments shall not be construed as an admission by the Government of the enforceability, validity or scope of, or title to any of the patents involved, nor shall any such reimbursement constitute a waiver of any rights or defenses respecting such patents, *provided*, however, that the approval of the Contracting Officer shall not be required for the payment of royalties pursuant to the terms of licenses issued under patents awarded compensation in accordance with that agreement known as the Cross-Licensing Agreement or the Manufacturers Aircraft Association, Inc., in effect as of December 31, 1928, as supplemented by the Agreement of September 30, 1935.

§ 18–9.109 Facilities license.

Where facilites are being constructed or acquired for the first time under a contract, the following clause shall be included therein.

LICENSE FOR SUBSEQUENT USE (AUGUST 1963)

Whenever the Contractor directly or by any subcontractor intends under this contract either (i) to acquire facilities for the account of the Government and to install such facilities or (ii) to fabricate facilities, or to do both (i) and (ii), which facilities are for the purpose either (1) of producing a patented product, or (2) of producing a product in accordance with a patented or proprietary process, the Contractor, before doing so, shall notify the Contracting Officer of his intention, so that consideration can be given to negotiating a license agreement for the use of such facilities by persons to whom the Government may subsequently sell or transfer the facilities. Such negotiation shall be for the purpose of determining the terms and conditions under which the Contractor will grant to or obtain for the Government (in addition to the rights granted by any clause which may be included in this contract entitled "New Technology") the right to convey to any purchaser or transferee of all or a part of the facilities under this contract an irrevocable license to practice and cause to be practiced solely in the maintenance or operation of the facilities any and all inventions (whether or not patented) of the Contractor or a subcontractor hereunder incorporated in, or used by the Contractor or subcontractor in the operation of, the facilities acquired or fabricated by the Contractor for the account of the Government under this contract.

§ 18–9.110 Proposals of equivalent merit.

When two or more potential contractors are judged to have presented proposals of equivalent merit, willingness to permit the Government to acquire and retain title to resulting inventions will be an additional factor in the evaluation of the proposals.

§ 18–9.150 Designation of representative for new technology and for patents.

(a) (1) When a NASA contract contains the clause entitled "New Technology" set forth in § 18–9.101–4 (hereinafter referred to as "the clause") the contracting officer shall designate representatives (hereinafter referred to as the "New Technology Representative" and the "Patent Representative") to administer the clause.

(2) When a NASA contract contains the "Property Rights in Inventions" clause set forth in § 18–9.101–5, the contracting officer shall designate a New Technology Representative and a Patent Representative to administer that clause. The respective responsibilities and authorities of these representatives in administering that clause shall be commensurate with those set forth in paragraphs (e), (f), and (g) of this section and §§ 18–9.151, 18–9.152, and 18–9.153, with respect to the "New Technology" clause, to the extent applicable in view of the more limited requirements of the "Property Rights in Inventions" clause.

(b) Designation of these representatives shall be by letter to the contractor, unless accomplished in the contract, with a copy to each representative so designated. The notification to the contractor shall state that all correspondence and other matters relating to the clause should be addressed to the New Technology Representative unless transmitted in response to correspondence from the Patent Representative. Letters to be used for these purposes are set forth in § 18–9.154.

(c) Except as provided in paragraph (d) of this section, the New Technology Representative shall be the Technology Utilization Officer or the staff member (by titled position) having cognizance of technology utilization matters for the NASA installation concerned; and the Patent Representative shall be the Patent Counsel or the staff member (by titled position) having cognizance of patent matters for the NASA installation concerned.

(d) The staff members having cognizance of technology utilization matters and of patent matters for the Western Operations Office normally will be designated as New Technology Representative and Patent Representative respectively for NASA contracts as assigned by Headquarters or field installations, in accordance with established policies.

(e) The New Technology Representative shall be furnished a copy of the contract, modifications thereto, progress

reports, and other pertinent material by the contracting officer, and shall be notified by the contracting officer of the organizational unit of the NASA installation having technical cognizance of the contract.

(f) The Patent Representative shall be furnished a copy of the contract, and modifications thereto, by the contracting officer, as well as copies of findings pursuant to § 18–9.101–3.

(g) The New Technology Representative and the Patent Representative shall maintain complete files of correspondence and other actions involving their respective administration of the clause. Copies of documents which are appropriate for inclusion in the general contract files shall be furnished the contracting officer.

§ 18–9.151 Contract review.

(a) The New Technology Representative shall review, as necessary, the technical progress of work performed under the contract to ascertain whether the contractor and his subcontractors, where appropriate, are complying with paragraphs (b), (c), (d), and (e) contained in section II of the clause.

(b) The New Technology Representative shall forward to the Patent Representative copies of all contractors' and subcontractors' written reports, and a copy of the written statement, if any, submitted with the report of the reportable item. All correspondence relating to inventions and waivers will also be forwarded to the Patent Representative. The Patent Representative shall review each reported item to determine the presence of inventions and notify the contractor and the New Technology Representative if he determines that any reportable item constitutes an invention.

(c) Consultations will be held by the New Technology Representative and the Patent Representative with cognizant technical personnel and others concerned, where required, to determine the relationship of inventions, discoveries, improvements and innovations made under contracts and subcontracts to work performed under the contract, and the value thereof to NASA or other Government agencies.

(d) No action shall be taken by either the New Technology Representative or the Patent Representative which would involve a change or increase in the work required to be performed under the contract, or which otherwise is outside the scope of obligations imposed upon the contractor by the contract. Any written decision pursuant to paragraph (q) of the clause or other correspondence relating thereto shall be prepared for and signed by the contracting officer.

(e) Upon completion of the contract work, the New Technology Representative shall determine whether the contractor and his subcontractor, where appropriate, have complied with paragraphs (b), (c), (d), and (e), contained in Section II of the clause. Such determinations generally will require consultation with the cognizant technical personnel.

(f) Upon completion of the contract work, the Patent Representative shall determine whether the contractor, and his subcontractors, where appropriate, have complied with paragraph (h) and Section IV of the clause.

§ 18–9.152 Contract clearance.

(a) Upon submission by the contractor of the final reports required by paragraphs (c) and (d)(3) of the clause, the New Technology Representative shall determine whether the contractor has complied with paragraphs (b), (c), and (d) of the clause and, if so, shall certify such compliance promptly to the contracting officer, with copy to the Patent Representative.

(b) Upon receipt of the copy of the New Technology Representative's certification of compliance, the Patent Representative shall determine whether the contractor has complied with paragraph (h) of the clause and, if so, shall certify such compliance to the contracting officer.

(c) Pursuant to the withholding provisions of the clause, final payment under the contract shall not be approved by the contracting officer until he has received the certifications of compliance referred to in paragraphs (a) and (b) of this section.

§ 18–9.153 Consultation with patent representative.

The New Technology Representative shall consult with the Patent Representative whenever a question arises as to:

(1) Whether a given invention, discovery, improvement, or innovation was made in the performance of work under the contract;

(2) Whether a given subcontract is of the type for which section 305(b) of the National Aeronautics and Space Act of 1958 requires insertion of effective provisions for the reporting of reportable items;

(3) Whether a proposed modification of the New Technology clause for insertion in a given subcontract meets the requirements of section 305(b) of the National Aeronautics and Space Act of 1958; and

(4) The identity of inventors or other originators of a reportable item.

§ 18–9.154 Sample designation letters.

(a) Sample letter to be used for designations under "New Technology" clause.

NASA LETTERHEAD STATIONERY

Date _____

Re: _____
(Contract Number)

(Contractor's Name
and Address)

GENTLEMEN:

The (title and address of the Technology Utilization Officer or the staff member having cognizance of technology utilization matters for the NASA installation concerned) has been designated as the New Technology Representative and the (title and address of the Patent Counsel or the staff member having cognizance of patent matters for the NASA installation concerned) has been designated as the Patent Representative to represent the contracting officer in administering the "New Technology" clause in this contract. In this capacity, they are responsible for monitoring compliance with that clause.

Correspondence with respect to the clause should be directed to the New Technology Representative unless transmitted in response to correspondence from the Patent Representative.

The requirement in the New Technology clause that there be set forth in subcontracts containing the clause the identification and mailing address of the contracting officer may be satisfied by including in such subcontracts these three paragraphs.

(To be signed by the Contracting Officer)

(b) Sample letter to be used for designations under Property Rights in Inventions clause.

NASA LETTERHEAD STATIONERY

Date _____

Re: _____
(Contract Number)

(Contractor's Name
and Address)

GENTLEMEN:

The (title and address of the Technology Utilization Officer or the staff members having cognizance of technology utilization matters for the NASA installation concerned) has been designated as the New Technology Representative and the (title and address of the Patent Counsel or the staff member having cognizance of patent matters for the NASA installation concerned) has been designated as the Patent Representative to represent the contracting officer in administering the "Property Rights in Inventions" clause in this contract. In this capacity, they are responsible for monitoring compliance with that clause.

Correspondence with respect to the clause should be directed to the New Technology Representative unless transmitted in response to correspondence from the Patent Representative.

(To be signed by the Contracting Officer)

Subpart 18–9.2—Data and copyrights

§ 18–9.200 Scope of subpart.

This subpart sets forth NASA policy, implementing instructions, and contract clauses with respect to acquisition and use of data and copyrights. The policy and procedures set forth in this subpart apply to all data required to be delivered to the Government under a contract whether such data originates with the contractor or a subcontractor.

§ 18–9.201 Definitions.

For the purpose of this subpart, the following terms have the meanings set forth below:

(a) "Data" means writings, sound recordings, pictorial reproductions, drawings, or other graphic representations and works of any similar nature whether or not copyrighted. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) "Proprietary data" means data providing information concerning the details of a contractor's secrets of manufacture, such as may be contained in but not limited to his manufacturing methods or processes, treatment and chemical composition of materials, plant layout, and tooling, to the extent that such information is not readily disclosed by inspection or analysis of the product itself and to the extent that the contractor has protected such information from unrestricted use by others.

(c) "Other data" means all data other than "proprietary data" and includes:

(1) Operational data which provides information suitable, among other things, for instruction, operation, maintenance, evaluation or testing; and

(2) Descriptive data which provides descriptive or design drawings or descriptive material in the nature of design specifications which, although not including any "proprietary data," may nevertheless be adequate to permit manufacture by other competent firms.

(d) "Standard commercial items" means supplies or services which normally are or have been sold or offered to the public commercially by any supplier.

§ 18–9.202 Acquisition and use of data.

§ 18–9.202–1 Acquisition of data.

(a) *General.* NASA generally subscribes to and follows the policy and procedures with respect to the acquisition of data set forth in ASPR 9–202.1. However, NASA's needs for data are different from those of the Department of Defense since NASA is concerned principally with research and development. In a research and development program the needs for data may not always be determinable at the time of contracting. NASA has developed a general clause designed to preserve a contractual right to call for such data as is retained in the normal course of business at any time up to one year after final payment under the contract. The "Data Requirements" clause set forth in paragraph (e) of this section has been developed to serve this need of NASA, and the instructions for its use are set forth in paragraph (d) of this section. Discussion of known requirements for data, in general, is set forth in paragraph (d) of this section and the requirements for data in supply contracts are treated in (c) below.

(b) *Known requirements for data.* Use of a "Rights in Data" clause does not obtain for the Government the delivery of any data whatsoever, but only rights to use that data which is specified elsewhere in the contract to be delivered. When the requirements for data are known in advance of making the contract and delivery of data is definitely to be required in the performance of the contract, the requirements for data must be specified in the Schedule of the contract. These data requirements should be made known to the contracting officer prior to the preparation of invitations for bids in the case of formally advertised procurements or prior to the preparation of requests for proposals in the case of contracts to be awarded by negotiation. Also, in the case of contracts to be awarded by negotiation, the requirements for data should be discussed as a part of the negotiation proceedings.

(c) *Requirements for data in supply contracts.* "Proprietary data" will not be requested by the Government in formally advertised procurements and procurements for standard commercial items. The requirements for data in a supply contract should be know in advance of making the contract and should be specifically set forth in the purchase request. If the negotiator feels that the data requirements furnished him are inadequate to obtain all the data which the Government should have, he should obtain further guidance from the cognizant technical office. If further data is then believed to be necessary, the services of legal counsel should be requested in drafting a suitable Schedule provision requiring the furnishing of such data, using the "Data Requirements" clause set forth in paragraph (e) of this section as a guide, where appropriate.

(d) *Requirements for data in contracts for experimental, developmental, or research work.* (1) If the contract calls for the development and delivery of hardware, or for the development of a practical process, the clause set forth in paragraph (e) of this section shall be included in the contract. Subparagraphs (a) (2) (ii) and (iii) of the clause may be deleted or modified in accordance with NASA's requirements as indicated by the project engineer. Also, upon request of the contractor, provision (2) of paragraph (c) may be deleted, in which case the identification "(1)" for provision (1) should also be deleted.

(2) In addition to the "Data Requirements" clause of paragraph (e) of this section, the Schedule of the contract may contain such specific provisions for the furnishing of data as may have been requested by the cognizant technical office or the contracting officer. If the contract does not call for the development and delivery of hardware, or for the development of a practical process, the instructions as to what data the contractor is to be required to furnish should ordinarily be set forth in the work statement or be included in a Schedule provision calling for reports. In any event, the contractor shall be required to furnish to the Government for the price of the work all data resulting directly from performance of the contract, whether or not it would otherwise be "proprietary data." The "Data Requirements" clause set forth in paragraph (e) of this section is not appropriate for use in research or study contracts unless hardware is to be furnished or a practical process is to be developed in the performance of the contract. However, nothing herein shall preclude the use of a data requirements clause in such contracts, but if such a clause is to be used, the assistance of legal counsel shall be obtained in drafting the clause.

(e) *Data requirements clause.*

DATA REQUIREMENTS (AUGUST 1963)

(a) To the extent that the following data is not elsewhere required to be furnished to the Government under this contract, and is of the type customarily retained in the normal course of business, the Contractor, upon written request of the Contracting Officer at any time during contract performance or within one year after final payment, shall furnish the following:

(1) A set of engineering drawings necessary to enable reproduction or, where appropriate, manufacture of any equipment or items furnished under the contract (other than components or items of standard commercial design or items fabricated heretofore); or a set of flow sheets and engineering drawings necessary to enable performance of any process developed under the contract. Such set or sets of drawings and flow sheets shall be reproducible copies incorporating all changes made in the equipment or process in the form in which it was delivered to the Government.

(2) Any of the following data which is necessary to explain or help Government technical personnel understand any equipment, items, or process developed under the contract and furnished to the Government:

(i) A copy (which shall be a reproducible master if one is so requested) of drawings and other technical data used in or prepared in connection with the development, practice, and testing of any process or processes required under the contract, or with the development, fabrication, and testing of prototype models of equipment or items (other than items of standard commercial design or items fabricated heretofore), if required under the contract.

(ii) A report of all studies made in planning the work, and in developing background research for the work, including citation references to all such background research, and a copy of all compilations, digests, or analyses of such background research compiled in connection with the performance of this contract.

(iii) A copy (which shall be a reproducible master if one is so requested) of design studies, research notes, parameter and tolerance studies, drawings, including Contractor's identification of symbols and markings, specifications, test results, and any other technical information used in any research, development, design, engineering, and testing required in the performance of this contract, including test equipment and related items, together with any information as to safety precautions which may be necessary in connection with the manufacture, storage, or use of the equipment, material, or process, if any, in the event that an equipment, material, or process is the subject of research under this contract.

The Contractor shall not be required to furnish any background data which may be described in (ii) or (iii) above unless such data is essential and closely related to the contract work.

(b) All reports, data, and recorded information which are required to be furnished by the Contractor under this provision, as well as all other reports of a technical nature required to be furnished under this contract, are "Subject Data" within the meaning of the clause of the General Provisions of this contract entitled "Rights in Data."

(c) Nothing contained in this "Data Requirements" clause shall require the Contractor to deliver (1) any data, the delivery of which is excused by paragraph (i) of the clause of the General Provisions of this contract entitled "Rights in Data"; or (2) data previously developed by parties other than the Contractor, independently of this contract and acquired by the Contractor prior to this contract under conditions restricting the Contractor's right to disclose the same. If any of the data requested is in the public domain or copyrighted, it will be sufficient for the Contractor to identify the data and furnish a citation as to where it may be found.

(d) Any reproducible copies requested under this "Data Requirements" clause shall be of a type and prepared in accordance with good commercial practice.

(e) In the event the Contracting Officer requests the delivery of data by the Contractor, as contemplated by (a) above, prior to final payment, such request shall be treated as a change under the clause of this contract entitled "Changes" and an equitable adjustment in the price, if this is a fixed-price contract, or estimated cost and any fixed fee, if this is a cost-type contract, shall be made to cover the cost of preparing drawings called for in (a) (1) above, and of collecting, preparing, editing, duplicating, assembling, and shipping the data requested under (a) above, but only to the extent that the Contractor warrants that such costs were

not included in the price (or estimated cost and fixed fee) of the contract. The Contractor shall comply with requests of the Contracting Officer made under (a) above, within one year following final payment, *provided,* That suitable provision is made for reimbursement of the additional costs of complying with such request, together with a reasonable fee or profit thereon, such additional costs being limited to the costs set forth above, and warranted to have been excluded from the price (or estimated cost and fixed fee) of the contract. Any adjustment or payment under this paragraph (e) shall not include any amount for the value of the data, as distinguished from the costs set forth above.

§ 18–9.202–2 Use of data.

(a) *Other data.* When data other than "proprietary data" is obtained, it shall be obtained without any limitation on its use by the Government.

(b) *"Proprietary data."*

(1) *Supply contracts.* When "proprietary data" is obtained by negotiation under a supply contract, in accordance with § 18–9.202–1, the purposes for obtaining it will govern its use. If it is obtained for the purpose of enabling the Government to establish additional sources of supply, it shall be obtained without limitation as to its use; in such case the "Rights in Data" clause defined and prescribed in §18–9.203–2 shall be included in the contract and the requirement for the "proprietary data" shall be specified in the contract Schedule. However, where it has been determined to be necessary to obtain "proprietary data" for some limited purpose, such as emergency manufacture by the Government, such data may be obtained subject to limitation as to its use; in such case the "Rights in Data" clause required by § 18–9.203–2 together with the paragraph (j) set forth in § 18–9.203–3 shall be included in the contract, and the contract Schedule shall suitably identify the data which shall be subject to limited use.

(2) *Contracts for experimental, developmental, or research work.* When "proprietary data" is obtained under a contract having as one of its principal purposes experimental, developmental, or research work, it shall be obtained without limitation as to its use; in such case the "Rights in Data" clause set forth in § 18–9.203–1 shall be included in the contract.

§ 18–9.202–3 [Reserved]

§ 18–9.202–4 [Reserved]

§ 18–9.202–5 [Reserved]

§ 18–9.202–6 Data furnished on a restricted basis in support of a proposal.

When an offeror has submitted data on a restricted basis in accordance with § 18–3.109 in response to a request for a proposal, and it is proposed to award the contract to such offeror, the contracting officer shall ascertain whether it is desired to acquire rights to use all or part of the data furnished with the proposal. If it is desired to acquire such rights, the contracting officer shall determine in accordance with § 18–9.201 whether such data is proprietary in nature, and shall negotiate with the offeror in accordance with the policy prescribed in § 18–9.202 for the acquisition and use of such data. If the offeror agrees to furnish such data under the contract, the appropriate clause of § 18–9.203 shall be inserted in the contract, and the Schedule shall identify the data to be covered by such clause.

§ 18–9.203 Rights in data clauses.

(a) If data is to be delivered under the contract, the appropriate "Rights in Data" clause set forth below shall be added to the "General Provisions." However, a "Right in Data" clause does not in itself specify the data with respect to which the Government will obtain the rights set forth in that clause. Therefore, Schedule provisions are necessary to specify the specific data which the Government wants to have furnished. (See § 18–9.202–1 for instructions concerning suitable Schedule provisions.) The rights prescribed in the "Rights in Data" clause attach only to the data specified to be delivered. Except for the cases noted in paragraph (b) of this section, when data is to be delivered the "Rights in Data" clause set forth in § 18–9.203–1 shall be included in the contract if it involves experimental, developmental, or research work; and if the contract is for supplies the clause defined and prescribed in § 18–9.203–2, together with paragraph (j) set forth in § 18–9.203–3, if applicable, shall be included in the contract.

(b) In the case of contracts for the acquisition of existing works, the provisions of §18–9.205 are applicable. In contracts for the production of motion pictures, preparation of scripts, musical compositions, sound tracks, translations, adaptations, and the like; or the histories and works described in § 18–9.204–3; the provisions of § 18–9.204–2 are applicable. Section 18–9.206 is applicable in contracts for performance outside the United States, its territories or possessions, or Puerto Rico. In contracts for research with a nonprofit institution using NASA Form 246, the provisions of § 18–9.204–50 are applicable; and in those for research with an educational or nonprofit institution using NASA Form 419S, the provisions of § 18–9.204–51 are applicable.

§ 18–9.203–1 Rights in data clause for use in contracts for experimental, developmental or research work.

RIGHTS IN DATA (SEPTEMBER 1964)

(a) The term "Subject Data" as used herein includes writings, sound recordings, pictorial reproductions, drawings, or other graphical representations, and works of any similar nature (whether or not copyrighted) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) The Contractor agrees to and does hereby grant to the Government, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all Subject Data now or hereafter covered by copyright.

(c) The Contractor shall not include in the Subject Data any copyrighted matter, without the written approval of the Contracting Officer, unless he provides the Government with the written permission of the copyright owner for the Government to use such copyrighted matter in the manner provided in paragraph (b) above.

(d) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Subject Data delivered under this contract.

(e) Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) Unless otherwise limited below, the Government may duplicate, use, and disclose in any manner and for any purpose whatsoever, and have others so do, all Subject Data delivered under this contract.

(g) The Contractor recognizes that the Government, or a foreign government with funds derived through the Mutual Security Program or otherwise through the United States Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of Subject Data on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Mutual Security Program or otherwise through the United States Government, charges for data which the Government has a right to use and disclose to others, or which is in the public domain, or with respect to which the Government has been placed in possession without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(h) Notwithstanding any provisions of this contract concerning inspection and acceptance, the Government shall have the right at any time to modify, remove, obliterate, or ignore any marking not authorized by the terms of this contract on any piece of Subject Data furnished under this contract.

(i) Data need not be furnished for standard commercial items or services which are normally or have been sold or offered to the public commercially by any supplier and which are incorporated as component parts in or to be used with the product or process being developed if in lieu thereof identification of source and characteristics (including performance specifications, when necessary) sufficient to enable the Government to procure the part or an adequate substitute, are furnished; and further, proprietary data need not be furnished for other items which were developed at private expense and previously sold or offered for sale, including minor modifications thereof, which are incorporated as component parts in or to be used with the product or process being developed, if in lieu thereof the Contractor shall identify such other items and that "proprietary data" pertaining thereto which is necessary to enable reproduction or manufacture of the item or performance of the process. For the purpose of this clause, "proprietary data" means data providing information concerning the details of a Contractor's secrets of manufacture, such as may be contained in but not limited to his manufacturing methods or processes, treatment and chemical composition of materials, plant layout and tooling, to the extent that such

information is not readily disclosed by inspection or analysis of the product itself and to the extent that the Contractor has protected such information from unrestricted use by others.

§ 18–9.203–2 Rights in data clause for use in supply contracts.

In all supply contracts where data is to be delivered, paragraph (i) of the "Rights in Data" clause in § 18–9.203–1 shall be omitted and the following paragraph (i) shall be substituted therefor.

(i) Notwithstanding any Tables or Specifications included or incorporated in the contract by reference, "proprietary data" need not be furnished unless suitably identified in the Schedule of the Contract as being required. For the purpose of this clause, "proprietary data" means data providing information concerning the details of a Contractor's secrets of manufacture, such as may be contained in but not limited to his manufacturing methods or processes, treatment and chemical composition of materials, plant layout and tooling, to the extent that such information is not readily disclosed by inspection or analysis of the product itself and to the extent that the Contractor has protected such information from unrestricted use by others. (July 1962)

In negotiated supply procurements, when "proprietary data" as defined in § 18–9.201 is to be obtained, the Schedule of the contract shall specify the extent of the "proprietary data" to be furnished.

§ 18–9.203–3 Limited rights in data provision for use in supply contracts.

In negotiated supply contracts where "proprietary data" is to be acquired and such data is needed only for a limited purpose, such as maintenance, the clause set forth in § 18–9.203–2 should be supplemented by the additional paragraph (j) set forth below. The Schedule of the contract must state the extent of the "proprietary data" to be furnished subject to such limitations. Paragraph (j) below is not authorized for use in a contract having as one of its principal purposes experimental, research, or developmental work.

(j) That portion of the Subject Data delivered under this contract which is identified in the Schedule as being subject to limitations shall not be released outside the Government, nor be duplicated, used, or disclosed in whole or in part for procurement or manufacturing purposes (other than for manufacture required in connection with repair or overhaul where an item is not procurable commercially so as to enable the timely performance of the overhaul or repair work; *provided,* when Data is released by the Government to a Contractor for such purposes, the release shall be made subject to the limitation of this clause; *provided further,* such Data shall not be used for manufacture or procurement of spare parts for stocks), without permission of the Contractor, if the following legend is marked on each piece of Data so limited either in its entirety or only partially as to its content:

Furnished under United States Government Contract No. _____ and only those portions hereof which are marked (for example, by circling, underscoring, or otherwise) and indicated as being subject to this legend shall not be released outside the Government (except to foreign governments, subject to these same limitations), nor be disclosed, used, or duplicated, for procurement or manufacturing purposes, except as otherwise authorized by contract, without the permission of _____. This legend shall be marked on any reproduction hereof in whole or in part.

Provided, that such Data may be delivered to foreign governments as the national interest of the United States may require, subject to the limitations specified in this paragraph. The Contractor shall not impose limitations on the use of any piece of Data, or any portion thereof, which the Contractor has previously delivered to the Government without limitations. (July 1962)

§ 18–9.204 Contract clauses—special.

§ 18–9.204–1 [Reserved]

§ 18–9.204–2 Production of motion pictures.

The clause set forth below is approved for use in contracts for the production of motion pictures with or without accompanying sound, and in all contracts for the preparation of motion picture scripts, musical compositions, sound tracks, translations, adaptations, and the like.

RIGHTS IN DATA (AUGUST 1963)

(a) The term "Subject Data" as used herein includes writings, sound recordings, pictorial reproductions, drawings or other graphical representations, and works of any similar nature (whether or not copyrighted) which are specified to be delivered under this contract. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) All Subject Data first produced in the performance of this contract shall be the sole property of the Government. The Contractor agrees not to assert any rights at common law or equity and not to establish any claim to statutory copyright in such Data. The Contractor shall not publish or reproduce such Data in whole or in part or in any manner or form, nor authorize others so to do, without the written consent of the Government until such time as the Government may have released such Data to the public.

(c) The Contractor agrees to grant and does hereby grant to the Government and its officers, agents and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world (i) to publish, translate, reproduce, deliver, perform, use and dispose of, in any manner, any and all Data not first produced or composed in the performance of this contract but which is incorporated in the work furnished under this contract; and (ii) to authorize others so to do.

(d) The Contractor shall indemnify and save and hold harmless the Government, its officers, agents and employees acting within the scope of their official duties against any liability, including costs and expenses, (i) for violation of proprietary rights, copyright, or right of privacy, arising out of the publication, translation, reproduction, delivery, performance, use or disposition of any Data furnished under this contract, or (ii) based upon any libelous or other unlawful matter contained in such Data.

(e) License rights under patents which might otherwise be implied to the parties hereto by virtue of this clause or as a result of the furnishing to the Government of Subject Data under this contract shall be in accordance with the clause of this contract entitled "Implied Licenses."

(f) Paragraphs (c) and (d) above are not applicable to material furnished to the Contractor by the Government and incorporated in the work furnished under the contract; *provided,* such incorporated material is identified by the Contractor at the time of delivery of such work.

§ 18–9.204–3 Histories and other works.

The contract clause set forth in § 18–9.204–2 is suggested for use in contracts for:

(1) Histories of NASA activities or installations;

(2) Works pertaining to recruiting, morale, training, or career guidance;

(3) Surveys of Government establishments, and

(4) Works pertaining to the instruction or guidance of Government officers and employees in the discharge of their official duties.

When the "Rights in Data" clause set forth in § 18–9.204–2 is used in contracts of the kinds listed above, there shall be added to the end of the first sentence of paragraph (a) of that clause, the following:

"or which are in fact delivered to the Government in the performance of this contract." (August 1963)

§ 18–9.204–50 Short form clause, fixed-price, research contract with nonprofit institutions (including educational institutions).

In contracts of the kind described in the heading, which are executed using NASA Form 246, the following clause shall be included in the contract.

TECHNICAL REPORTS AND DATA (JULY 1962)

(a) Upon completion of the work under this contract, the Contractor shall submit the number of copies required in the Schedule of a complete and final technical report of his findings and conclusions together with any original illustrations and photographic negatives. With the prior approval of the Contracting Officer, the Contractor may submit interim technical reports in lieu of the final report at such intervals as may be agreed upon.

(b) The Government may publish, reproduce or use, and have others so do, for any purpose, without limitation, drawings, studies, research notes, technical information and other scientific data resulting from this contract.

§ 18–9.204–51 Short form clause, cost-reimbursement, research contract with nonprofit institutions (including educational institutions).

In contracts of the kind described in the heading, which are executed using NASA Form 419S, the following clause shall be included in the contract.

DATA AND INSPECTION (JULY 1962)

The Government may publish, reproduce, and use, and have others so do, for any purpose, without limitation, drawings, studies, research notes, technical information, and other scientific data resulting from this contract. The Government has the right, at all reasonable times, to inspect or otherwise evaluate the work being performed under this contract.

§ 18–9.205 Contracts for acquisition of existing works.

§ 18–9.205–1 Off-the-shelf purchase of books and similar items.

Notwithstanding the instructions of any other paragraph of this Subpart, no contract clause contained in this Subpart need be included in contracts for the separate, sole procurement of data, other than motion pictures, in the exact form in which such material exists prior

to the initiation of a request for purchase (such as the off-the-shelf purchases of existing products) unless the right to reproduce such data is an objective of the contract.

§ 18–9.205–2 Contracts for existing motion pictures.

Contracts for the procurement of existing motion pictures or for the modification of existing motion pictures will be made only after consultation with legal counsel.

§ 18–9.206 Contracts to be performed outside the United States.

(a) Except as otherwise provided in §§ 18–9.204 and 18–9.205, the clause set forth below shall be included in all contracts under which (i) technical information including reports, drawings, blueprints, or other data is specified to be delivered to the Government, and (ii) the work is to be performed outside the United States, its possessions, or Puerto Rico, regardless of the place of delivery.

TECHNICAL INFORMATION (JULY 1962)

The Government may duplicate, use and disclose, in any manner for its Government purposes, including delivery to other governments for the furtherance of mutual defense of the United States Government and such other governments, all or any part of the technical information including reports, drawings, blueprints, and other data specified to be delivered by the Contractor to the Government under this contract.

(b) The above clause may be modified by substituting "the United States Government" for "Government"; however, when the contractor is a foreign government, the above clause shall be modified by substituting "the United States Government" for "Government" and by substituting the name of the foreign government for "Contractor."

Effective dates. Provisions of Part 18–9 are effective as of April 15, 1964, except that §§ 18–9.101, 18–9.110, 18–9.150, 18–9.151, 18–9.152 and 18–9.203–1, are effective September 28, 1964.

GEORGE J. VECCHIETTI,
Acting Director of Procurement, National Aeronautics and Space Administration.

[F.R. Doc. 64–8657; Filed, Aug. 26, 1964; 8:45 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Reg. No. 4, further amended]

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950——)

Subpart D—Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability

1. Subpart D of Regulations No. 4 of the Social Security Administration (20 CFR 404.1 et seq.) has been reorganized and updated and, as so revised, reads as follows:

Sec.

AUTHORITY: The provisions of this Subpart D issued under sections 205 and 1102, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; section 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 405 and 1302. Also, §§ 404.301–404.305, §§ 404.313–404.365 issued under section 202, 64 Stat. 482, as amended, 42 U.S.C. 402; §§ 404.306–404.309 issued under section 223, 70 Stat. 815, as amended, 42 U.S.C. 423; §§ 404.310–404.312 issued under section 216(i), 68 Stat. 1080, as amended, 42 U.S.C. 416(i).

§ 404.301 Types of benefits payable; period of disability; general.

Title II of the Social Security Act provides, if certain conditions are met, for the payment of monthly benefits to an insured individual retired because of disability or old age; to the wife or husband, and children of an individual entitled to disability or old-age insurance benefits; or to the widow, widower, children, parents, or former wife divorced of a deceased insured individual. Title II of the Act also provides for the payment of a lump sum upon the death of an insured individual. There is also provision for the establishment, under certain conditions, of a period of disability for a disabled insured individual. The following sections of this subpart

set out the conditions of eligibility for the various monthly benefits, for the lump-sum death payment, and for a period of disability and also describe the events causing termination of entitlement to monthly benefits or a period of disability. See also Subpart E for regulations relating to deductions from benefits and lump-sum death payments, suspension of benefit payments, and reduction and increase of benefit amounts; Subpart N of this part for circumstances under which benefits may be terminated where entitlement is based upon military service and the individual becomes entitled to another Federal benefit based in whole or in part on such military service; and Subpart O of this part for the effect of entitlement to an annuity or lump sum under the Railroad Retirement Act on entitlement to monthly benefits or a lump sum under title II of the Social Security Act.

§ 404.302 Amount of benefit payments.

Ordinarily, a beneficiary is paid the monthly benefit, or lump sum, to which he is entitled in the amount indicated in the succeeding sections of this subpart. However, in some instances he may be paid more or less than such amount because of the provisions of Subparts E or F of this part. See those subparts for full explanation of the circumstances under which these changes occur. See Subpart E of this part also for conditions under which benefits will not be paid where the individual on whose wages and self-employment income benefits are claimed, or based, is deported, or where a claimant or beneficiary is an alien residing outside the United States or has been convicted of certain offenses.

§ 404.303 Old-age insurance benefits; conditions of entitlement.

An individual is entitled to old-age insurance benefits if such individual:

(a) Is fully insured (as defined in §§ 404.108–404.113); and

(b) Has attained age 62 (age 65 for a man for benefits for months before August 1961 and for a woman for benefits for months before November 1956); and

(c) Has filed an application (see Subpart G of this part) for old-age insurance benefits, or was entitled to disability insurance benefits for the month before the month in which the individual attained age 65.

§ 404.304 Old-age insurance benefits; duration of entitlement.

An individual is entitled to an old-age insurance benefit for each month beginning with the first month in which all of the conditions of entitlement described in § 404.303 are satisfied. The last month for which such individual is entitled to such benefit is the month before the month in which he dies. However, old-age insurance benefits may be terminated, under certain circumstances, before the death of the individual entitled to such benefits when entitlement to a Federal benefit based on military service is involved (see Subpart N of this part) or when entitlement to benefits under the Railroad Retirement Act is involved (see Subpart O of this part).

§ 404.305 Old-age insurance benefits; rate of benefit.

The amount of the old-age insurance benefit to which an individual is entitled for any month is equal to his primary insurance amount (see Subpart C of this part) for such month, subject to reduction under section 202(q) of the Act in cases where the beneficiary elects to take a reduced benefit for months after age 61 and prior to age 65.

§ 404.306 Disability insurance benefits; conditions of entitlement.

An individual is entitled to disability insurance benefits if such individual:

(a) Is under a disability as defined in § 404.1501(a); and

(b) Has been under such disability throughout the "waiting period" (as defined in § 404.308(a)), where such period is required (see § 404.308(b) for circumstances under which a waiting period is not required); and

(c) Is insured for disability insurance benefits (see §§ 404.116–404.118) at the time specified in § 404.115(b); and

(d) Has filed an application (see § 404.606 and § 404.607) for disability insurance benefits; and

(e) Has not attained age 65 (and, for benefits for months before November 1960, had attained age 50); and

(f) Was not entitled to old-age, wife's, or husband's insurance benefits reduced under section 202(q) of the Act, or to widow's, widower's, or parent's insurance benefits, for any month before the first month for which such individual would otherwise be entitled to disability insurance benefits.

§ 404.307 Disability insurance benefits; duration of entitlement.

An individual is entitled to a disability insurance benefit beginning with the first month after June 1957 (or after October 1960, if the individual did not attain age 50 prior to November 1960), in which all of the conditions of entitlement described in § 404.306 are satisfied and ending with the earliest of the following months:

(a) The month before the month in which such individual dies;

(b) The month before the month in which such individual attains age 65;

(c) The month before the first month for which such individual is entitled to old-age insurance benefits (where a woman entitled to disability insurance benefits became entitled to old-age insurance benefits prior to August 1961, her entitlement to disability insurance benefits terminated with the month before the month in which she became entitled to old-age insurance benefits); or

(d) The second month following the month in which such individual's disability (as defined in § 404.1501(a)) ceases (see § 404.1539). However, where the individual's disability ceased in a month before October 1960, entitlement to disability insurance benefits terminated with the month before the month in which such disability ceased.

§ 404.308 Disability insurance benefits; waiting period.

(a) *"Waiting period" defined.* A waiting period is the earliest period of 6 full consecutive calendar months throughout which the individual has been under a disability (as defined in § 404.1501(a)) which continued until his application for disability insurance benefits is filed (see § 404.606 and § 404.607); however, an individual's "waiting period" can begin no earlier than the later of:

(1) The first month such individual is insured for disability insurance benefits (see §§ 404.116–404.118);

(2) The eighteenth month before the month in which such individual's application for disability insurance benefits is filed;

(3) January 1, 1957; or

(4) Where the individual attained age 50 before November 1960, the sixth month before the month in which such individual attained age 50.

For purposes of this paragraph, where the individual's disability (as defined in § 404.1501(a)) begins on the first day of the month and continues through the last day of the month, such month shall be considered as a full calendar month.

(b) *When "waiting period" is not required.* With respect to disability insurance benefits for months after August 1960, a "waiting period" is not required as a condition of entitlement to disability insurance benefits in cases where:

(1) Such individual had previously been entitled to disability insurance benefits which terminated or had a period of disability (see § 404.310) which ceased; and

(2) Such termination of entitlement to disability insurance benefits, or such cessation of a period of disability, occurred within the 60-month period before the first month in which such individual is under the disability upon which his present claim is based.

§ 404.309 Disability insurance benefits; rate of benefit.

The amount of the disability insurance benefit to which an individual is entitled shall be determined as follows:

(a) *Individual first entitled to benefits after 1960.* The disability insurance benefit of an individual who becomes entitled to such benefit based on an application filed after 1960 shall be equal to his primary insurance amount for such month computed as if such individual:

(1) Had attained age 65 if a man, or age 62 if a woman, in the first month of the "waiting period" (see § 404.308(a)) or, if no waiting period is required (see § 404.308(b)), in the first month for which such individual becomes entitled to disability insurance benefits; and

(2) Had filed application for old-age insurance benefits in the month in which the application for disability insurance benefits is filed. For the purposes of this paragraph, years in which a woman was both fully insured and had actually attained age 62 shall not be considered in computing elapsed years as described in section 215(b)(3) of the Act.

(b) *Individual first entitled to benefits after August 1960 and before January*

1961. The disability insurance benefit of an individual who became entitled to disability insurance benefits for a month after August 1960, based on an application filed after August 1960 and before January 1961, shall be equal to his primary insurance amount for such month computed as though he became entitled to old-age insurance benefits in:

(1) The first month of his waiting period (see § 404.308(a)); or

(2) If no waiting period was required (see § 404.308(b)), the first month for which he became entitled to disability insurance benefits.

(c) *Individual first entitled to benefits before September 1960.* The disability insurance benefit of an individual entitled to such benefit based on an application filed before September 1960, shall be equal to his primary insurance amount computed as though he became entitled to old-age insurance benefits in the first month of his waiting period.

§ 404.310 Period of disability: defined; conditions of entitlement.

(a) *Period of disability defined.* An individual's period of disability is a continuous period (beginning and ending as described in § 404.311) of at least 6 full consecutive calendar months' duration unless (beginning September 1960) such individual is entitled to disability insurance benefits for one or more months in such period.

(b) *Conditions of entitlement.* An individual is entitled to the establishment of a period of disability if:

(1) He is under a disability as defined in § 404.1501(b); and

(2) He is insured for establishment of a period of disability (see §§ 404.116–404.118) at the time specified in § 404.115 (a); and

(3) He has filed application (see § 404.607a) to establish a period of disability; and

(4) Not less than 6 full consecutive calendar months have elapsed from the date on which a period of disability could begin (as determined in § 404.311(a) or § 404.311(b)) for such individual and before the date on which such period of disability could end (as determined in § 404.311(c)). However, to establish a period of disability beginning September 1960, or later, the continuous period may be less than 6 months if during such period the individual was entitled to disability insurance benefits for one or more months (where the beginning date of the period of disability would be the first day of a month, for the purposes of this paragraph such month shall be considered as a full calendar month); and

(5) Such individual was not entitled to old-age, wife's, or husband's insurance benefits reduced under the provisions of subsection (q) of section 202 of the Act, or to widow's, widower's, or parent's insurance benefits, for any month before the month in which the period of disability could begin for such individual.

§ 404.311 Period of disability; duration.

The beginning and ending dates of a period of disability shall be determined as follows:

(a) *Beginning date; application filed before July 1, 1962.* Where application to establish a period of disability is filed after December 1954, and before July 1, 1962, with respect to a disability (as defined in § 404.1501(b)) which continued without interruption until such application was filed, the individual's period of disability shall begin:

(1) On the day such disability began, providing the individual meets the applicable disability insured status requirements (see §§ 404.116–404.118) on such day; or

(2) If he does not satisfy the applicable disability insured status requirements on the day such disability began, on the first day of the first quarter thereafter in which he satisfies such disability insured status requirements, provided such day is within the effective lifetime of the application to establish a period of disability (see § 404.607a) and provided further that on such day the individual is still under such disability.

(b) *Beginning date; application filed after June 30, 1962.* Where application to establish a period of disability is filed after June 30, 1962, the period of disability shall begin as determined in paragraph (a) of this section except that in no case may such period of disability begin earlier than 18 months before the day the application is filed.

(c) *Ending date.* A period of disability established for an individual shall terminate with the earliest of the following dates:

(1) The last day of the month preceding the month in which such individual attains age 65 (however, where attainment of age 65 occurred in a month before October 1960, the period of disability terminated as of the last day of the month in which age 65 was attained); or

(2) The last day of the month in which such individual dies; or

(3) The last day of the second month following the month in which such individual's disability (as defined in § 404.1501(b)) ceases. However, where cessation of disability occurred in a month before October 1960, the period of disability terminated as of the last day of the month in which such disability ceased.

§ 404.312 Period of disability; when disregarded.

None of the provisions relating to periods of disability shall be applicable, and all of the periods of disability established for an individual shall be disregarded, in any case where the application of such provisions:

(a) Would result in the denial of a claim for monthly benefits or the lump-sum death payment, and such monthly benefits or lump sum would be payable if no period of disability had been established for the individual upon whose earnings such monthly benefit or lump sum is claimed; or

(b) Would result in the payment of a monthly benefit or lump-sum death payment in an amount smaller than would otherwise be payable if no period of disability had been established for the individual upon whose earnings such benefit or lump sum is based.

§ 404.313 Wife's insurance benefits; conditions of entitlement.

A woman is entitled to wife's insurance benefits if she:

(a) Is the wife (as defined in § 404.1103) of a man who is entitled to either old-age insurance benefits or disability insurance benefits; and

(b) Has filed an application (see Subpart G of this part) for wife's insurance benefits; and

(c) Has attained age 62 (age 65 for benefits for months before November 1956) or, if she has not attained age 62 (or age 65, as the case may be) at the time of filing her application has in her care (see §§ 404.342–404.349), individually or jointly with her husband, a child entitled to a child's insurance benefit (see § 404.320) based upon her husband's earnings record; and

(d) Is not entitled to old-age or disability insurance benefits based on a primary insurance amount which equals or exceeds one-half of the primary insurance amount of her husband.

§ 404.314 Wife's insurance benefits; duration of entitlement.

A woman is entitled to a wife's insurance benefit for each month beginning with the first month in which all of the conditions of entitlement described in § 404.313 are satisfied, but not before September 1958 where benefits are based on the earnings of a man entitled to disability insurance benefits. The last month for which she is entitled to such benefits is the month before the first month in which any of the following events occurs:

(a) She dies; or

(b) Her husband dies; or

(c) Her marriage is terminated; or

(d) Her husband's entitlement to disability insurance benefits terminates and he is not entitled to old-age insurance benefits; or

(e) She has not yet attained age 62 and there is no child of her husband entitled to a child's insurance benefit; or

(f) She becomes entitled to an old-age or disability insurance benefit based upon a primary insurance amount which equals or exceeds one-half of the primary insurance amount of her husband; or

(g) In the case of a woman entitled to wife's insurance benefits based on a purported marriage (see § 404.1101(c)(2)) to the individual upon whose earnings record such benefit is based:

(1) She enters into a valid marriage with someone other than such individual; or

(2) Another woman is certified for entitlement to wife's insurance benefits based on such individual's earnings and such other woman is the wife (or is deemed to be the wife) of the insured individual under the provisions of section 216(h)(1)(A) of the Act.

§ 404.315 Wife's insurance benefits; rate of benefit.

The amount of the wife's insurance benefit for any month is equal to one-half of the husband's primary insurance amount for such month. However, such

wife's insurance benefit is reduced by a specified percentage, as provided in section 202(q) of the Act, for each month in which she is at least age 62 and under age 65, and in which she does not have in "her care" (see §§ 404.342–404.349) a child of her husband entitled to child's insurance benefits on any earnings record (for months before August 1961, the child must have been entitled on the basis of her husband's earnings) and for which she has elected to receive such reduced wife's insurance benefit.

§ 404.316 Husband's insurance benefits; conditions of entitlement.

(a) *Conditions of entitlement.* A man is entitled to husband's insurance benefits if he:

(1) Is the husband (as defined in § 404.1106) of a woman who is:

(i) Entitled either to old-age insurance benefits or disability insurance benefits; and

(ii) Currently insured (except as provided in paragraph (b) of this section) as defined in Subpart B of this part; and

(2) Has filed an application (see Subpart G of this part) for husband's insurance benefits; and

(3) Has attained age 62 (age 65, for benefits for months before August 1961); and

(4) Was receiving (except as provided in paragraph (b) of this section) at least one-half of his support (see § 404.350) from his wife at a time specified in § 404.319 and, within a 2-year period specified in § 404.319(c), submitted evidence that he was receiving such support; and

(5) Is not entitled to old-age or disability insurance benefits based on a primary insurance amount (see Subpart C of this part) which equals or exceeds one-half of the primary insurance amount of his wife.

(b) *When the "currently insured" and "one-half support" conditions of entitlement do not apply.* The "currently insured" and "one-half support" requirements are not applicable for benefits for months after August 1958, where:

(1) In the month before the month of his marriage to his wife upon whose earnings record he is claiming husband's insurance benefits, the claimant, based on the earnings of another individual:

(i) Was entitled to, or upon application therefor and attainment of age 62 (age 65 for months before August 1961) in such month would have been entitled to, widower's or parent's insurance benefits; or

(ii) Had attained age 18 and was entitled to, or upon application therefor would have been entitled to, child's insurance benefits; and

(2) Application for husband's insurance benefits is filed after August 27, 1958.

§ 404.317 Husband's insurance benefits; duration of entitlement.

A man is entitled to a husband's insurance benefit for each month beginning with the first month in which all of the conditions of entitlement described in § 404.316 are satisfied, but not before September 1958 where benefits are based on the earnings of a woman entitled to disability insurance benefits. The last month for which he is entitled to such benefit is the month before the first month in which any of the following events occurs:

(a) He dies; or

(b) His wife dies; or

(c) His marriage is terminated; or

(d) He becomes entitled to old-age or disability insurance benefits based on a primary insurance amount which equals or exceeds one-half of the primary insurance amount of his wife; or

(e) His wife's entitlement to disability insurance benefits terminates and she is not entitled to old-age insurance benefits; or

(f) In the case of a man entitled to husband's insurance benefits based on a purported marriage (as described in §404.1101(c)(2)), to the woman upon whose earnings such benefit is based:

(1) He enters into a valid marriage with someone other than such woman; or

(2) Another man is certified for entitlement to husband's insurance benefits based on such woman's earnings and this other man is the husband (or is deemed to be the husband) of such woman under the provisions of section 216(h)(1)(A) of the Act.

§ 404.318 Husband's insurance benefits; rate of benefits; rate of benefit.

The amount of the husband's insurance benefit for any month is equal to one-half of his wife's primary insurance amount for such month. However, such husband's insurance benefit is reduced by a specified percentage, as provided in section 202(q) of the Act, for each month in which he is at least age 62 and under age 65 and for which he has elected to receive a reduced benefit.

§ 404.319 Husband's insurance benefits; time at which support requirement must be met; period within which evidence must be filed.

The time at which the support requirement must be met, and the period within which evidence of such fact must be filed with the Administration, is determined as follows:

(a) *Time at which support requirement must be met; period of disability existing up to time of entitlement to benefits.* If his wife had a period of disability established (see § 404.310) and such period of disability did not end before the month in which she became entitled to disability or old-age insurance benefits, the support requirement must be met:

(1) At the beginning of such period of disability; or

(2) At the time she became entitled to disability insurance benefits; or

(3) At the time she became entitled to old-age insurance benefits.

(b) *Time at which support requirement must be met; no period of disability in effect at time of entitlement.* If his wife did not have a period of disability established (see § 404.310) which continued until she became entitled to disability or old-age insurance benefits, the support requirement must be met either:

(1) At the time she became entitled to disability insurance benefits; or

(2) At the time she became entitled to old-age insurance benefits.

(c) *Period within which evidence must be filed establishing that support requirement is met.* For the purposes of entitlement to husband's insurance benefits, evidence establishing that the husband was receiving at least one-half his support from his wife must be filed within a specified 2-year period determined as follows:

(1) If the support requirement is met at the beginning of a period of disability, as provided in paragraph (a)(1) of this section, evidence of such support must be filed within 2 years after the month in which the wife filed application to establish such period of disability, or before September 1960, whichever is later.

(2) If the support requirement is met at the time the wife became entitled to disability insurance benefits, as provided in paragraphs (a)(2) and (b)(1) of this section, evidence of such support must be filed within 2 years after the month in which she became entitled to such benefits, or before September 1960, whichever is later.

(3) If the support requirement is met at the time the wife became entitled to old-age insurance benefits, as provided in paragraphs (a)(3) and (b)(2) of this section, evidence of such support must be filed within 2 years after the month in which she became entitled to such benefit.

(4) Notwithstanding the provisions of subparagraphs (1), (2), and (3) of this paragraph, in any case in which there would not be entitlement to husband's insurance benefits except for enactment of the Social Security Amendments of 1960, and the time at which the support requirement was met (determined in accordance with paragraph (a) or (b) of this section) occurred before September 1960, evidence of such support may be filed within the 2 years after September 1960.

Evidence of support, (see Subpart H of this part) must be filed with the Administration within the appropriate 2-year period even though the husband may not be eligible for husband's insurance benefits until after the expiration of such period because one of the conditions of entitlement (see § 404.316) will not be met during such period. See §404.616 and §404.617 for provisions regarding the deemed filing of evidence within the appropriate period in cases where good cause exists for failure to file such evidence before the expiration of the period specified in subparagraphs (1), (2), (3), or (4) of this paragraph. See also § 404.612 for provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, extending, under certain conditions, the period for filing evidence of support.

§ 404.320 Child's insurance benefits; conditions of entitlement.

A child is entitled to a child's insurance benefit if he or she:

(a) Is the child (as defined in § 404.1109) of:

(1) An individual entitled to old-age insurance benefits or disability insurance benefits; or

(2) An individual who was fully insured (see §§ 404.108–404.113) or currently insured (see § 404.114) at the time of death; and

(b) Has filed application, except as provided in § 404.353(d), for child's insurance benefits; and

(c) Is unmarried at the time such application is filed; and

(d) Has not attained age 18 at the time such application is filed or, if age 18 or older, is under a disability (as defined in § 404.1501(a)) which began before attainment of age 18; and

(e) Was dependent (see §§ 404.324–404.327) at a time specified in § 404.323, upon the parent on whose earnings child's insurance benefits are claimed.

§ 404.321 Child's insurance benefits; duration of entitlement.

(a) A child is entitled to a child's insurance benefit for each month beginning with the first month (but not before September 1958, if benefits are based on the earnings of a parent entitled to disability insurance benefits and not before October 1960, based on applications filed after August 1960, if the parent on whose earnings the benefits are claimed died before 1940) in which all of the conditions of entitlement described in § 404.320 are satisfied. No entitlement to child's benefits may exist for any month prior to the month of the child's birth.

(b) The last month for which a child is entitled to a child's insurance benefit is the earliest of the following months:

(1) The month before the first month in which any one of these events occurs:

(i) The child dies;

(ii) The child is adopted (except for adoption by a stepparent, grandparent, aunt, or uncle after the death of the individual on whose earnings such entitlement is based);

(iii) The child marries (except as provided in paragraph (c) of this section);

(iv) The child attains age 18 and is not under a disability (as defined in § 404.1501(a)) which began before attainment of age 18;

(v) The parent on whose earnings the child's entitlement to benefits is based, ceases to be entitled to disability insurance benefits for reasons other than death or attainment of age 65; or

(2) Where a woman entitled to child's insurance benefits is married to a man entitled to disability insurance benefits, or to child's insurance benefits after attainment of age 18 (see paragraph (c) of this section), the month in which her husband's entitlement to such benefits ends for a reason other than his death or his entitlement to old-age insurance benefits; or

(3) The second month following the month in which such child, after attainment of age 18, ceases to be under a disability as defined in § 404.1501(a). (For months before October 1960, entitlement terminated with the month before the month in which such child ceased to be under such disability.)

(c) The marriage of a child, age 18 or over, under a disability as defined in § 404.1501(a) and entitled to child's insurance benefits, will not terminate such entitlement (however, see paragraph (b)(2) of this section for termination because of a subsequent event) if the marriage is to:

(1) A person age 18 or older entitled to child's insurance benefits; or

(2) A person entitled to old-age, widow's, widower's, mother's, parent's, or disability insurance benefits.

The provisions of this paragraph apply with respect to benefits for months after August 1958. However, if entitlement to child's insurance benefits was terminated before September 1958 because of the child's marriage and entitlement to such benefits would not have been terminated had the provisions of this paragraph been in effect for such month, the provisions of this paragraph are effective with respect to child's insurance benefits for months after August 1958 (subject to the provisions of § 404.607(a)(2)) only if application for such benefits is filed after August 28, 1958.

§ 404.322 Child's insurance benefits; rate of benefit.

The amount of the child's insurance benefit for each month is determined as follows:

(a) *Parent is alive.* If the parent upon whose earnings the child's insurance benefit is based is entitled to old-age or disability insurance benefits for a month, the child's insurance benefit for such month is equal to one-half of the primary insurance amount of such parent for such month.

(b) *Parent is deceased.* If the parent upon whose earnings the child's insurance benefit is based is deceased, the amount of each child's insurance benefit for the month in which such parent died, or any subsequent month, subject to the provisions of § 404.352, is equal to three-fourths of the primary insurance amount of the deceased parent. (For months before December 1960, the child's insurance benefit was one-half the deceased parent's primary insurance amount plus one-fourth of such primary insurance amount divided by the number of children entitled on that parent's earnings.)

§ 404.323 Child's insurance benefits; time at which child must be dependent upon parent.

(a) *Months after August 1958.* For months after August 1958, based on applications filed after August 27, 1958, the dependency requirement must be met:

(1) At the time the application for child's insurance benefits is filed, if the parent is living; or

(2) At the time of the parent's death, if the parent has died; or

(3) If the parent had a period of disability which continued until he became entitled to disability or old-age insurance benefits (or, if he has died, until the month of his death) at the beginning of such period of disability, or at the time he became entitled to such benefits. Where the parent is entitled to disability insurance benefits, dependency of the child may not be established at the time specified in subparagraph (1) of this paragraph if the child is the legally adopted child of such parent (but was not his stepchild) unless the adoption was completed before the end of the 24-month period beginning with the month after the month in which the parent most recently became entitled to disability insurance benefits and either:

(i) The adoption proceedings were instituted by the parent in or before the month in which such parent's period of disability began and such period of disability has continued until the time of the adoption; or

(ii) The adopted child was living with such parent in the month in which such period of disability began.

(b) *Months before September 1958.* For benefits for months before September 1958, the points in time at which the dependency requirement might be met were the time of filing of the application for child's insurance benefits, or, if the parent was deceased, the time of such parent's death.

§ 404.324 Child's insurance benefits; determining dependency upon parent; in general.

The test used in determining whether a child is dependent at one of the applicable times indicated in § 404.323, depends on the relationship between the child and the parent involved, i.e., whether the parent is the child's father or mother, adopting father or mother, or stepfather, or stepmother. The tests are described in §§ 404.325–404.327.

§ 404.325 Child's insurance benefits; dependency upon father or adopting father.

(a) *Months after August 1960.* For benefits for months after August 1960, based on an application filed after August 1960, a child is deemed dependent upon his father or adopting father if, at the time determined under the provisions of § 404.323(a):

(1) The parent was living with the child; or

(2) The parent was contributing to the support of the child; or

(3) The child is the legitimate or legally adopted child of such individual and has not been legally adopted by some other person. (A child deemed to be a child of an individual pursuant to § 404.1101(c)(1) is deemed to be the legitimate child of such individual for purposes of this paragraph.)

(b) *September 1958 to August 1960.* For benefits for months after August 1958 and before September 1960, a child is deemed dependent upon his father or adopting father if, at the time determined under the provisions of § 404.323(a):

(1) The parent was living with the child; or

(2) The parent was contributing to the support of the child; or

(3) The child is the legitimate or legally adopted child of such individual, and has not been legally adopted by some other person, and the child was not living with and was not receiving more than one-half of his support from his stepfather.

(c) *Months before September 1958.* For benefits for months before September 1958, the dependency of a child upon

his father or adopting father is determined as follows:

(1) *Benefits for months before attainment of age 18.* For benefits for months before the month in which the child attained age 18, the provisions described in paragraph (b) of this section apply in determining whether a child was dependent at the time described in § 404.323(b).

(2) *Benefits for months of attainment of age 18 and thereafter.* For benefits for months after December 1956, based on applications filed after September 1956, a child age 18 or older and under a disability which began before age 18, was deemed dependent at the time described in § 404.323(b) if:

(i) The child was, or upon filing application therefor would have been, entitled to child's insurance benefits on such parent's earnings for any month before the month in which the child attained age 18; or

(ii) The child was receiving at least one-half his support from such parent.

§ 404.326 Child's insurance benefits; dependency upon stepfather.

A child's dependency upon his stepfather is determined as follows:

(a) *General.* Except as provided in paragraph (b) of this section, a child is deemed dependent upon his stepfather at the time specified in § 404.323 if at such time the child was living with or receiving at least one-half his support from his stepfather.

(b) *Months after December 1956 and before September 1958.* For benefits for months after December 1956 and before September 1958, based on an application filed after September 1956, a child age 18 or older and under a disability which began before age 18, is deemed dependent upon his stepfather only if either of the tests described in § 404.325(c)(2) is met.

§ 404.327 Child's insurance benefits; dependency upon mother, adopting mother, or stepmother.

A child's dependency upon his mother, adopting mother or stepmother is determined as follows:

(a) *General.* Except as provided in paragraph (b) of this section, a child is deemed dependent upon such parent at the time specified in § 404.323 if at such time such parent:

(1) Was contributing at least one-half of the child's support; or

(2) Was living with the child or contributing to the child's support and the child was neither living with nor receiving contributions toward support from his father or adopting father; or

(3) Is the child's natural or legally adopting mother and is currently insured.

(b) *Months after December 1956 and before September 1958—child age 18 or over.* For benefits for months after December 1956 and before September 1958, based on application filed after September 1956, a child age 18 or older and under a disability which began before age 18 is deemed dependent upon his mother, adopting mother, or stepmother only if either of the tests described in § 404.325(c)(2) is met.

§ 404.328 Widow's insurance benefits; conditions of entitlement.

(a) *Conditions of entitlement.* A woman is entitled to widow's insurance benefits if she:

(1) Is the widow (see § 404.1104) of a man who was fully insured (see §§ 404.108–404.113) at the time of death; and

(2) Has attained age 62 (age 65, for benefits for months before November 1956); and

(3) Has not remarried since the individual's death (except as provided in paragraph (b) of this section); and

(4) Is not entitled to an old-age insurance benefit which equals the amount of the widow's benefit as determined in accordance with § 404.330; and

(5) Has (except as provided in paragraph (c) of this section) filed application (see Subpart G of this part) for widow's insurance benefits.

(b) *When remarriage not bar to entitlement or reentitlement.* (1) For purposes of paragraph (a)(3) of this section, a remarriage is deemed not to have occurred:

(i) In the case of widow's insurance benefits for months after August 1958, if such marriage is terminated by the husband's death within one year of the date of the marriage and he was not fully insured at the time of death.

(ii) In the case of widow's insurance benefits for months after October 1956, and before September 1958, if such marriage is terminated by the husband's death within one year of the date of the marriage and the widow is not the mother of the deceased individual's son or daughter, nor did she, while married to the deceased, legally adopt his son or daughter while such child was under age 18, and neither did the widow and the deceased during their marriage both legally adopt a child under age 18.

(2) A woman may reestablish entitlement to widow's insurance benefits after such entitlement was terminated because of her remarriage (see § 404.329(a)(1)), if such marriage terminates under the conditions described in clause (i) or (ii) of subparagraph (1) of this paragraph, whichever is appropriate and, subsequent to the termination of such marriage, she again meets the conditions described in paragraph (a) of this section for entitlement to widow's insurance benefits on her prior deceased husband's earnings, including the filing of an application for such benefits.

(3) No benefits are payable by reason of the provisions of subparagraphs (1) or (2) of this paragraph for any month before whichever of the following is the latest:

(i) The month in which the woman's subsequent husband died; or

(ii) The 12th month prior to the month in which application for widow's insurance benefits is filed (or refiled in cases where the provisions of subparagraph (2) of this paragraph apply); or

(iii) September 1958, if clause (i) of subparagraph (1) of this paragraph applies, or November 1956, if clause (ii) of such subparagraph applies.

(c) *When application for widow's insurance benefits not required.* An application for widow's insurance benefits (see subparagraph (a)(5) of this section) is not required if, based on the earnings on which widow's insurance benefits are being claimed, the woman:

(1) Was entitled to mother's insurance benefits for the month before the month in which she attained age 62 (age 65, for months before November 1956); or

(2) Was entitled, after attainment of age 62 (age 65, for months before November 1956), to wife's insurance benefits for the month before the month in which the insured individual died.

§ 404.329 Widow's insurance benefits; duration of entitlement.

(a) *Duration of entitlement.* A woman is entitled to widow's insurance benefits for each month beginning with the first month (but not before October 1960, based on applications filed after August 1960, if the individual on whose earnings benefits are claimed died before 1940) in which all of the conditions of entitlement described in § 404.328 are satisfied. The last month for which a woman is entitled to widow's insurance benefits is the month before the first month in which any of the following events occurs:

(1) She remarries (except as provided in paragraph (b) of this section); or

(2) She dies; or

(3) She becomes entitled to an old-age insurance benefit which equals or exceeds the amount of the widow's insurance benefit as determined in accordance with § 404.330; or

(4) In the case of a woman entitled to widow's insurance benefits based on a purported marriage (see § 404.1101(c)(2)) to the deceased individual, another woman is certified for entitlement to widow's insurance benefits based on such deceased individual's earnings and such other woman is the widow (or is deemed to be the widow) of the deceased individual under the provisions of section 216(h)(1)(A) of the Act; or

(5) If she is married to a person 18 or over, entitled to child's insurance benefits, her husband's entitlement to such insurance benefits (see paragraph (b) of this section) terminates for a reason other than his death.

(b) *When remarriage will not terminate entitlement.* (1) A woman's entitlement to widow's insurance benefits if not terminated by her remarriage if the man she marries:

(i) Is entitled to widower's or parent's insurance benefits; or

(ii) Is age 18 or older, under a disability which began before age 18, and entitled to child's insurance benefits. (However, see subparagraph (a)(5) of this section for termination of widow's insurance benefits because of a subsequent event.)

(2) The provisions of this paragraph apply with respect to widow's insurance benefits for months after August 1958. However, if entitlement to widow's insurance benefits was terminated before September 1958 because of the widow's remarriage and entitlement to such benefits would not have been terminated had the provisions of this paragraph been in effect for such month, the provisions of this paragraph are effective with respect to widow's insurance bene-

fits for months after August 1958 (subject to the provisions of § 404.607(a)(2)) only if application for such benefits is filed after August 28, 1958.

§ 404.330 Widow's insurance benefits; rate of benefit.

The amount of the widow's insurance benefit for any month, subject to the provisions of § 404.352, is equal to 82½ percent (75 percent for months before August 1961) of the primary insurance amount of the deceased individual upon whose earnings such benefit is based.

§ 404.331 Widower's insurance benefits; conditions of entitlement.

(a) *Conditions of entitlement.* A man is entitled to widower's insurance benefits if:

(1) His wife was, at her death, fully insured (see §§ 404.108–404.113) and, except as provided in paragraph (b) of this section, currently insured (see § 404.114); and

(2) He is her widower as defined in § 404.1107; and

(3) He has attained age 62 (age 65 for benefits for months before August 1961); and

(4) He has not remarried since the death of his wife; and

(5) He has filed an application (see Subpart G of this part) for widower's insurance benefits, or was entitled to husband's insurance benefits based on his wife's earnings for the month before the month in which she died; and

(6) He was, at a time specified in § 404.334, receiving at least one-half of his support (see § 404.350) from his wife, except as provided in paragraph (b) of this section, and within a 2-year period specified in § 404.334(c) submitted evidence that he was receiving such support; and

(7) He is not entitled to an old-age insurance benefit which equals or exceeds the amount of the widower's insurance benefits determined in accordance with § 404.333.

(b) *Conditions under which "currently insured" and "one-half support" requirements do not apply.* The "currently insured" and "one-half support" requirements do not apply in determining whether a man is entitled to widower's insurance benefits for months after August 1958 if:

(1) Application for widower's insurance benefits is filed after August 27, 1958; and

(2) In the month before the month of his marriage to his deceased wife on whose earnings he is claiming widower's insurance benefits he:

(i) Was entitled to, or upon application therefor and attainment of age 62 in such month (age 65, for months before August 1961), would have been entitled to, widower's or parent's insurance benefits; or

(ii) Had attained age 18 and was entitled to, or upon application therefor would have been entitled to, child's insurance benefits.

§ 404.332 Widower's insurance benefits; duration of entitlement.

(a) *Duration of entitlement.* A man is entitled to widower's insurance benefits for each month beginning with the first month in which all of the conditions of entitlement described in § 404.331 are satisfied (but not before October 1960, based on an application filed after August 1960, if the individual on whose earnings such benefits are claimed died before 1940). The last month for which he is entitled to widower's insurance benefits is the month before the first month in which any of the following events occurs:

(1) He dies; or

(2) He becomes entitled to an old-age insurance benefit which equals or exceeds the amount of the widower's insurance benefit as determined in accordance with § 404.333; or

(3) He remarries (except as provided in paragraph (b) of this section); or

(4) In the case of a man entitled to widower's insurance benefits based on a purported marriage to the deceased (see § 404.1101(c)(2)), another man is certified for entitlement to widower's insurance benefits based on the deceased's earnings and such other man is the widower (or is deemed to be the widower) of the deceased under the provisions of section 216(h)(1)(A) of the Act.

(b) *When remarriage will not terminate entitlement to benefits.* (1) Remarriage will not terminate entitlement to widower's insurance benefits if such marriage is to a woman entitled to widow's, mother's, or parent's insurance benefits or to a woman who is age 18 or older and entitled to child's insurance benefits.

(2) The provisions of this paragraph apply with respect to benefits for months after August 1958; provided, that in cases in which entitlement to widower's insurance benefits was terminated before September 1958 because of the widower's remarriage and such entitlement would not have been terminated had the provisions described in this paragraph been in effect for such month, the provisions of this paragraph shall be effective with respect to widower's insurance benefits for months after August 1958 (subject to the provisions of § 404.607(a)(2)), but only if application for such benefits is filed after August 28, 1958.

§ 404.333 Widower's insurance benefits; rate of benefit.

The amount of the widower's insurance benefit for any month, subject to the provisions of § 404.352, is equal to 82½ percent (75 percent for months before August 1961) of the primary insurance amount of his deceased wife upon whose earnings such benefit is based.

§ 404.334 Widower's insurance benefits; time at which support requirement must be met; period within which evidence must be filed.

The time at which the support requirement must be met and the period within which evidence of such support must be filed with the Administration is determined as follows:

(a) *Time at which support requirement must be met; period of disability existing at time of death or entitlement to benefits.* If the deceased woman on whose earnings widower's insurance benefits are claimed had a period of disability established (see § 404.310) and such period of disability did not end before the month in which she became entitled to old-age or disability insurance benefits, or died, the support requirement may be met either:

(1) At the beginning of such period of disability; or

(2) At the time she became entitled to disability or old-age insurance benefits, providing that the deceased was then currently insured; or

(3) At the time of her death.

(b) *Time at which support requirement must be met; no period of disability existing at time of death or entitlement to benefits.* If the woman on whose earnings widower's insurance benefits are claimed did not have a period of disability established which continued until the time she died or became entitled to old-age or disability insurance benefits, the support requirement may be met either:

(1) At the time she became entitled to disability or old-age insurance benefits, providing that she was then currently insured; or

(2) At the time of her death.

(c) *Period within which evidence of support must be filed.* For purposes of entitlement to widower's insurance benefits, evidence that the widower was receiving at least one-half his support from his deceased wife must be filed with the Administration within a specified 2-year period determined as follows:

(1) If the support requirement was met at the beginning of a period of disability as provided in subparagraph (1) of paragraph (a) of this section, evidence of such support must be filed within 2 years after the month in which the wife filed application to establish such period of disability, or before September 1960, whichever is later.

(2) If the support requirement is met at the time the wife became entitled to disability insurance benefits as provided in subparagraphs (a)(2) and (b)(1) of this section, evidence of such support must be filed within 2 years after the month in which she became entitled to such benefits, or before September 1960, whichever is later.

(3) If the support requirement is met at the time the wife became entitled to old-age insurance benefits as provided in subparagraphs (a)(2) and (b)(1) of this section, evidence of such support must be filed within 2 years after the month in which she became entitled to such benefits.

(4) If the support requirement was met at the time of the wife's death as provided in subparagraphs (a)(3) and (b)(2) of this section, evidence of such support must be filed within 2 years after the date of her death.

(5) Notwithstanding the provisions of subparagraphs (1), (2), (3), and (4) of this paragraph:

(i) In any case in which there would not be entitlement to widower's insurance benefits except for enactment of the Social Security Amendments of 1960, and the time at which the support requirement was met occurred before September 1960, evidence of such support may be

filed within the 2 years after September 1960; and

(ii) In any case in which there would not be entitlement to widower's insurance benefits except for enactment of the Social Security Amendments of 1961, and the time at which the support requirement was met occurred before September 1960, evidence of such support may be filed within the 2-year period beginning on August 1, 1961.

Evidence of support must be filed with the Administration within the appropriate 2-year period even though the widower may not be eligible for widower's insurance benefits until after the expiration of such period because one of the conditions of entitlement (see § 404.331) will not be met during such period. See § 404.616 and § 404.617 for provisions regarding the deemed filing of evidence within the appropriate period in cases where good cause exists for failure to file such evidence before the expiration of the time specified in subparagraphs (1), (2), (3), (4), or (5), of this paragraph. See also § 404.612 for provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 extending, under certain conditions, the period for filing evidence of support.

§ 404.335 Mother's insurance benefits; conditions of entitlement.

(a) *Conditions of entitlement—widow.* A woman is entitled to mother's insurance benefits if:

(1) Her husband was fully insured (see §§ 404.108–404.113) or currently insured (see § 404.114) at the time of his death; and

(2) She is his widow as defined in § 404.1104; and

(3) She has not remarried since the individual's death (except as provided in paragraph (c) of this section); and

(4) She is not entitled to a widow's insurance benefit; and

(5) She is not entitled to an old-age insurance benefit which equals or exceeds the amount of the mother's insurance benefit as determined in accordance with § 404.337; and

(6) She has filed application (see Subpart G of this part) for mother's insurance benefits or, in the month before the month in which the insured individual died, she was entitled to wife's insurance benefits based on such deceased's earnings; and

(7) She has in her care (see §§ 404.342–404.349), at the time of filing application for mother's insurance benefits, or at the time of the death of the insured individual if she was entitled to wife's insurance benefits as described in subparagraph (6) of this paragraph, a child of the deceased insured individual entitled to a child's insurance benefit.

(b) *Conditions of entitlement—former wife divorced.* A woman is entitled to mother's insurance benefits based on the earnings record of a deceased former husband if:

(1) He was fully insured (see §§ 404.108–404.113) or currently insured (see § 404.114) at the time of his death; and

(2) She is his former wife divorced (see § 404.1105); and

(3) She has not remarried since her divorce from the deceased (except as provided in paragraph (c) of this section); and

(4) She is not entitled to a widow's insurance benefit; and

(5) She is not entitled to an old-age insurance benefit which equals or exceeds 75 percent of the primary insurance amount of the deceased insured individual upon whose earnings mother's insurance benefits are claimed; and

(6) She has filed application (see Subpart G of this part) for mother's insurance benefits; and

(7) She has in her care (see §§404.342–404.349), at the time of filing application for mother's insurance benefits a child of her deceased former husband entitled to child's insurance benefits payable on the earnings of such deceased individual and such child is her son, daughter, or legally adopted child; and

(8) She was, pursuant to agreement or court order (see § 404.351), receiving at least one-half of her support (see § 404.350) from her deceased former husband:

(i) At the time of his death; or

(ii) If he had a period of disability (see § 404.310) established which did not end prior to the month of his death, at the beginning of such period of disability or at the time of his death (the provisions of this clause apply with respect to benefits for months after August 1958).

(c) *When remarriage not a bar to entitlement or reentitlement.* (1) For purposes of paragraphs (a)(3) and (b)(3) of this section a remarriage is deemed not to have occurred if such marriage is terminated by the husband's death and the woman is not, and upon filing application therefore in the month in which he died would not be, entitled to benefits for such month based on his earnings.

(2) A woman may reestablish entitlement to mother's insurance benefits after such entitlement was terminated because of her remarriage (see § 404.336(a)(3)) if such remarriage terminates under the conditions described in subparagraph (1) of this paragraph and subsequent to such termination she again meets the conditions described in paragraph (a) of this section, or in paragraph (b) of this section, whichever is applicable, for entitlement to mother's insurance benefits on her prior deceased husband's earnings, including the filing of an application for such benefits.

(3) No benefits are payable by reason of the provisions of subparagraphs (1) or (2) of this paragraph for any month before whichever of the following is the latest:

(i) The month in which the woman's subsequent husband died; or

(ii) The 12th month before the month in which application for mother's insurance benefits is filed (or refiled, in cases where the provisions of subparagraph (2) of this paragraph apply); or

(iii) September 1958.

§ 404.336 Mother's insurance benefits; duration of entitlement.

(a) *Duration of entitlement to mother's insurance benefits.* The widow or former wife divorced of a deceased individual is entitled to a mother's insurance benefit for each month beginning with the first month (but not before October 1960, based on an application filed after August 1960, if the individual on whose earnings benefits are claimed died before 1940) in which all of the conditions of entitlement described in § 404.335(a) or § 404.335(b), as the case may be, are satisfied. The last month for which she is entitled to such benefit is the month before the first month in which any one of the following events occurs:

(1) She becomes entitled to an old-age insurance benefit which equals or exceeds the amount of the mother's insurance benefit as determined in accordance with § 404.337; or

(2) She becomes entitled to a widow's insurance benefit; or

(3) She remarries (except as provided in paragraph (b) of this section); or

(4) She dies; or

(5) No child of the deceased individual is entitled to a child's insurance benefit; or

(6) In the case of a former wife divorced, no son, daughter, or legally adopted child of hers is entitled to a child's insurance benefit based on the deceased individual's earnings; or

(7) If she is married to a person age 18 or older entitled to child's insurance benefits (see paragraph (b) of this section) her husband's entitlement to such benefits terminates for a reason other than his death; or

(8) If she is married to a person entitled to disability insurance benefits (see paragraph (b) of this section) her husband's entitlement to such benefits terminates for a reason other than his death or his entitlement to old-age insurance benefits; or

(9) In the case of a woman entitled to mother's insurance benefits based on a purported marriage (see § 404.1101(c)(2)) to the deceased individual, another woman is certified for entitlement to mother's insurance benefits based on such deceased's earnings and such other woman is the widow (or is deemed to be the widow) of the deceased individual under the provisions of section 216(h)(1)(A) of the Act.

(b) *When remarriage will not terminate entitlement to mother's insurance benefits.* (1) A woman's entitlement to mother's insurance benefits is not terminated by her remarriage if the man the woman marries is entitled to old-age insurance benefits, disability insurance benefits, widower's insurance benefits, or parent's insurance benefits or if he attained the age of 18, is under a disability as defined in § 404.1501(a), and is entitled to child's insurance benefits. However, see subparagraphs (7) and (8) of paragraph (a) of this section for termination because of a subsequent occurrence.

(2) The provisions of this paragraph apply with respect to mother's insurance

benefits for months after August 1958; provided, that in any case in which entitlement to such benefits was terminated before September 1958 and such entitlement would not have been terminated had the provisions described in this paragraph been in effect for such month, the provisions of this paragraph shall be effective with respect to mother's insurance benefits for months after August 1958 (subject to the provisions of § 404.607(a)(2)) but only if application for such benefits is filed after August 28, 1958.

§ 404.337 Mother's insurance benefits; rate of benefit.

The amount of the mother's insurance benefit for any month subject to the provisions of § 404.352, is equal to 75 percent of the primary insurance amount for such month of the deceased individual upon whose earnings the mother's insurance benefit is based.

§ 404.338 Parent's insurance benefits; conditions of entitlement.

(a) *Conditions of entitlement.* A man or woman is entitled to parent's insurance benefits if such person:

(1) Is the parent, as defined in § 404.1110) of an individual who was fully insured (see §§ 404.108–404.113) at the time of death; and

(2) Has attained age 62 (age 65, for men for benefits for months before August 1961, and for women for benefits for months before November 1956); and

(3) Has not married since such insured individual's death; and

(4) Is not entitled to an old-age insurance benefit which equals or exceeds the amount of the parent's insurance benefit as determined in accordance with § 404.340; and

(5) Has filed application (see Subpart G of this part) for parent's insurance benefits; and

(6) Was receiving at least one-half support (see § 404.350) from the deceased insured individual at a time specified in § 404.341(a) and submitted proof of such support within a 2-year period specified in § 404.341(b); and

(7) For benefits for months before September 1958, was not barred from entitlement because of the survival of a widow, widower, or child of the deceased who met certain conditions (see paragraph (b) of this section).

(b) *Conditions under which survival of spouse or child of deceased defeated entitlement to parent's insurance benefits.* Entitlement to parent's insurance benefits for months before September 1958, was precluded by the survival of a spouse or child of the deceased under the following conditions:

(1) Entitlement to parent's insurance benefits for months after August 1957 and before September 1958 is precluded if the deceased was survived by:

(i) A widow who meets the conditions in § 404.328(a) (1) and (4), unless the parent filed evidence of support before September 1957; or

(ii) By a widower who meets the conditions in § 404.331(a) (2) and (7), unless the parent filed evidence of support before September 1957; or

(iii) By an unmarried child, under age 18 who was deemed dependent upon such individual under § 404.325, § 404.326, or § 404.327; or

(iv) By an unmarried child who had attained age 18, was under a disability which began before age 18, and was deemed dependent upon such deceased individual under the provisions of §404.325(c)(2), § 404.326(b), or § 404.327(b), whichever is appropriate.

(2) Entitlement to parent's insurance benefits for months before September 1957 is precluded if the deceased was survived by:

(i) A widow who meets the conditions in § 404.328(a)(1), (4), and who was living with the deceased at the time of his death; or

(ii) A widower who meets the conditions in § 404.331(a)(2), (7), and who was living with the deceased at the time of her death; or

(iii) An unmarried child under age 18 who was deemed dependent upon such deceased individual under § 404.325, § 404.326, or § 404.327; or

(iv) An unmarried child who had attained age 18, and was under a disability (see § 404.1501(a)) which began before age 18, and who was deemed dependent upon such deceased individual under the provisions described in § 404.325(c)(2), § 404.326(b), or § 404.327(b), whichever is applicable (however, the provisions of this clause (iv) apply only for months after August 1956 based on the earnings record of an individual who died after August 1956).

§ 404.339 Parent's insurance benefits; duration of entitlement.

(a) *Duration of entitlement.* A parent is entitled to parent's insurance benefits for each month beginning with the first month in which all of the conditions of entitlement described in § 404.338 are satisfied (but not before October 1960, based on applications filed after August 1960, if the individual on whose earnings benefits are claimed died before 1940). The last month for which a parent is entitled to parent's insurance benefits is the month before the first month in which any of the following events occurs:

(1) The parent dies; or

(2) The parent marries (except as provided in paragraph (b) of this section); or

(3) The parent becomes entitled to an old-age insurance benefit which equals or exceeds the amount of the parent's insurance benefit as determined in accordance with § 404.340; or

(4) In the case of a woman entitled to parent's insurance benefits who is married to a man age 18 or older and entitled to a child's insurance benefit (see paragraph (b) of this section) her husband's entitlement to such benefits terminates for a reason other than his death.

(b) *When marriage will not terminate parent's insurance benefits.* (1) Entitlement to parent's insurance benefits is not terminated by marriage if such marriage is to a person entitled to widow's, widower's, mother's, or parent's insurance benefits or to a person who has attained age 18 and is entitled to child's insurance benefits. (However, see subparagraph (a)(4) of this section for subsequent terminating event.)

(2) The provisions of this paragraph apply with respect to parent's insurance benefits for months after August 1958, except that in any case in which such benefits were terminated before September 1958, and such benefits would not have been terminated had the provisions of this paragraph been in effect for such month, the provisions of this paragraph shall be effective with respect to parent's insurance benefits for months after August 1958 (subject to the provisions of § 404.607(a)(2)), but only if application for such benefits is filed after August 28, 1958.

§ 404.340 Parent's insurance benefits; rate of benefit.

(a) *Months after July 1961.* The amount of the parent's insurance benefit for each month after July 1961, is an amount equal to:

(1) 82½ percent of the deceased individual's primary insurance amount if only one parent is entitled to parent's insurance benefits subject to the provisions of § 404.352; or

(2) 75 percent of the deceased individual's primary insurance amount if more than one person is entitled to parent's insurance benefits; however, in any case in which:

(i) One person files application and is entitled to parent's insurance benefits for a month; and

(ii) Another person becomes entitled to a parent's insurance benefit for such month but based on an application filed after such month and after the month in which the application of the person referred to in subdivision (i) was filed, the amount of the parent's insurance benefit of the person referred to in subdivision (i) of this subparagraph for the month referred to in such clause, shall be equal to 82½ percent of the deceased individual's primary insurance amount and the amount of the parent's insurance benefit of the parent referred to in subdivision (ii) of this subparagraph for such month shall be equal to the difference between the amount of the benefit of the parent referred to in subdivision (i) of this subparagraph (before the application of § 404.402) and 150 percent of the primary insurance amount of the deceased individual.

(b) *Months before August 1961.* For months before August 1961, the amount of a parent's insurance benefit for any month subject to the provisions of § 404.352, is equal to 75 percent of the primary insurance amount for such month of the deceased insured individual.

§ 404.341 Parent's insurance benefits; time at which support requirement must be met; period within which evidence must be filed.

(a) *Time at which support requirement must be met.* For entitlement to parent's insurance benefits, the support requirement must be met either:

(1) At the time of the insured individual's death; or

(2) If such individual had a period of disability established which did not end before the month in which such individual died, at the beginning of such period of disability.

(b) *Period within which evidence of support must be submitted.* (1) If the support requirement is met at the time of death, as provided in subparagraph (a)(1) of this section, evidence of support must be filed with the Administration within 2 years after the death of such death.

(2) If the support requirement is met at the beginning of the individual's period of disability (in accordance with subparagraph (a)(2) of this section) proof of such support must be filed within 2 years after the month in which such individual filed application to establish such period of disability, or before September 1960, whichever is later.

(3) Notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph:

(i) In any case in which there would not be entitlement to parent's insurance benefits except for enactment of the Social Security Amendments of 1960, and the time at which the support requirement was met occurred before September 1960, evidence of such support may be filed within the 2 years after September 1960; and

(ii) In any case in which there would not be entitlement to parent's insurance benefits except for the enactment of the Social Security Amendments of 1961, and the time at which the support requirement was met occurred before August 1, 1961, evidence of such support may be filed within the 2-year period beginning on August 1, 1961.

Evidence of support must be filed with the Administration within the appropriate 2-year period even though the parent may not be eligible for parent's insurance benefits until after the expiration of such period. See § 404.616 and § 404.617 for provisions regarding the deemed filing of evidence of support within the appropriate 2-year period, in cases where good cause exists for failure to file such evidence before the expiration of the time specified in subparagraphs (1), (2), or (3) of this paragraph. See also § 404.612 for provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 extending, under certain conditions, the period for filing evidence of support.

§ 404.342 In her care; general.

For purposes of § 404.313 and § 404.335, and of Subpart E, a mother (whether a wife, widow, or former wife divorced) has a child in her care if she exercises parental control and responsibility for the welfare and care of a child under age 18, or of a child age 18 or older who is mentally incompetent. If the child is age 18 or older and mentally competent, "in her care" means that the mother is performing personal services for the child.

§ 404.343 In her care; exercising parental control and responsibility.

For purposes of § 404.342:

(a) Parental control and responsibility may be exercised solely by the mother or jointly with her husband. However, the exercise of parental control and responsibility exclusively by one parent and then by the other over successive periods of time does not constitute the joint exercise of parental control and responsibility.

(b) Parental control and responsibility may be exercised directly or, where the mother and child are apart, it may be exercised indirectly. The fact that the mother has not lost the legal right to the child's care and custody, and retains the right to exercise parental control and responsibility, does not constitute the exercise of such parental control and responsibility even if she furnishes the child's food, clothing, and shelter or makes provision therefor.

§ 404.344 In her care; performing personal services.

For purposes of § 404.342, personal services means services performed for a child other than any routine household services which ordinarily are performed for any adult member of a household. For example, nursing care, or feeding or dressing a child who is unable because of his disability to perform these functions satisfactorily for himself, would constitute personal services, as would the direction or supervision of the activities of a child who is unable to manage his own funds, or who is able to do so only with considerable help and guidance. Also, if the mother's presence and attention is required because of the nature of the child's impairment, she would be considered to be performing personal services for the child. Such services may be performed by the mother alone, or jointly with her husband or another person.

§ 404.345 In her care; mother and child living together.

Where the mother and child regularly live together, the mother is considered to have a child in her care if she either is exercising parental control and responsibility by supervising the child's activities and participating in the important decisions about the child's physical and mental needs, or performing personal services, as the case may be. However, if the mother and child are living together only temporarily, she is not considered to have the child in her care during the period they are together, even if she exercises parental control and responsibility, or performs personal services, as the case may be, during such period, unless:

(a) The child is in her care while they are apart; or

(b) They live together for a period of at least 30 consecutive days, and the child is not on furlough while in the armed forces.

§ 404.346 In her care; mother and child not living together; general.

Where the mother and child are not living together, the mother is not considered to have a child in her care except under the conditions described in § 404.347 and § 404.348.

§ 404.347 In her care; mother and child not living together; separation not in excess of 6 months.

Except as provided in § 404.349, where the separation is expected to end within 6 months from the date it began, a mother is considered to have a child in her care only if the child customarily lives with her and is in her care when they so live together (see § 404.345). If the separation continues beyond the 6-month period, the provisions of § 404.348 are applicable in determining whether the mother has the child in her care.

§ 404.348 In her care; mother and child not living together; separation expected to be indefinite or to exceed 6 months.

(a) *General.* Where the mother and child are not living together and the separation will be for an indefinite period, or is not expected to end within 6 months, the mother is exercising parental control and responsibility for the care and welfare of the child only under the conditions described in paragraphs (b), (c), (d), and (e) of this section. If the child resumes living with the mother before the end of 6 months, the provisions of § 404.347 are applicable in determining whether the mother has the child in her care.

(b) *Child away at school.* Where the mother and a mentally competent child are separated because the child is away at school, the mother is exercising parental care and responsibility during such separation if:

(1) The child is under 18 years of age and spends an annual vacation of at least 30 consecutive days with her, unless it is not feasible for the child to return to her, or to remain with her for that length of time, during vacations; and

(2) The mother supervises the child's activities and participates in the important decisions about the child's physical and mental needs; and

(3) Where the child's mother and father are separated, the school authorities look to the mother when they have a question concerning the child's welfare and care, and the child normally returns to her during vacations.

(c) *Mother and child not living together because of the mother's employment.* Where the mother and a mentally competent child under 18 years of age are separated because of the mother's employment, the mother is exercising parental control and responsibility if she supervises the child's activities, participates in the important decisions about the child's physical and mental needs, and makes regular and substantial contributions towards the child's support.

(d) *Mother and child not living together because of physical illness or disability.* Where the mother and a mentally competent child under 18 years of age are separated because of the physical illness or disability of either, the mother is exercising parental control and responsibility if she supervises the child's activities and participates in the important decisions about the child's physical and mental needs.

(e) *Mother and child not living together; child mentally incompetent.*

Where mother and child are not living together (regardless of reason), and the child is mentally incompetent, the mother is exercising parental control and responsibility if she supervises the activities of the child, participates in the important decisions about the child's physical and mental needs, and measurably controls the child's upbringing and development.

§ 404.349 In her care; when a mother does not have a child in her care.

Notwithstanding the provisions in §§ 404.342–404.348, a mother does not have a child in her care, for purposes of this subpart or Subpart E, if:

(a) The child is in the armed forces; or

(b) The mother and child are not living together and either:

(1) The child is living with the father; or

(2) The mother is mentally incompetent; or

(3) The child was removed from the mother's custody and control by a court order; or

(4) The mother has relinquished her right to custody and control of the child to some other person or agency; or

(5) The separation is for a period of more than 6 months, and the child is age 18 or older and is mentally competent.

§ 404.350 "One-half support" defined.

(a) *Applicability.* One of the requirements for entitlement to husband's benefits, widower's benefits, parent's benefits, or mother's benefits as a former wife divorced (see § 404.316, § 404.331, § 404.335, and §404.338), is that the person claiming such benefits was receiving at least one-half support from the insured individual at a specified time. One-half support is also a requirement for entitlement to child's benefits on the earnings record of a stepfather or stepmother and, in certain cases, for entitlement on the earnings record of a natural or adopting mother (see §404.326 and §404.327).

(b) *What constitutes "at least one-half support."* A person is receiving at least one-half of his support from the insured individual at a specified time, if such individual, for a reasonable period (as defined in paragraph (e) of this section) before the specified time made regular contributions, in cash or kind, to such person's support and the amount of such contributions equalled or exceeded one-half of such person's support during such period.

(c) *"Support" defined.* The term "support" includes food, shelter, clothing, ordinary medical expenses, and other ordinary and customary items for maintenance of the person supported.

(d) *"Contributions" defined.* "Contributions," as used in this section, means contributions actually provided by the contributor from his own property, or the use thereof, or by the use of his own credit. When a person receives, and uses for his support, income from his services or property and such income, under applicable State law, is community property of himself and his spouse, no part of such income is a "contribution" by the spouse to such person's support regardless of any legal interest the spouse may have therein. However, when a person receives, and uses for his support, income from the services or property of his spouse and, under applicable State law, such income is community property, all of such income is considered to be a contribution by such spouse to such person's support.

(e) *"Reasonable period" defined.* (1) Ordinarily, a period of 12 months (except where there is a change in the support situation in such period) ending with the specified time is a reasonable period for purposes of determining whether the one-half support requirement is met at the specified time.

(2) Where there is a change in the support situation during the 12-month period, the reasonable period (except where the provisions of subparagraph (3) of this paragraph apply) begins with the change, or if there is more than one change, with the last change, and ends with the specified time. A change in the support situation for purposes of this paragraph is one in which there is an increase or decrease of support from a source or sources, and the increase or decrease is expected to be continuing and permanent. However, temporary or periodic increases or decreases, or periodic shifts of support do not constitute a change in the support situation for purposes of this paragraph (e.g., the contributor is seasonally employed and contributes only when employed, or a parent stays a certain number of months with each of several children during a calendar year).

(3) Where untoward circumstances (such as illness or unemployment) forced the insured individual to stop contributing, or to reduce his contributions, the reasonable period is determined by excluding the period effected by such untoward circumstances provided:

(i) The insured individual contributed at least one-half such person's support for at least 3 months (either consecutive or intermittent) of the 12-month period ending with the specified time; and

(ii) No one else (including such person) assumed the burden of providing at least one-half of such person's support on a continuing and permanent basis after the insured stopped or reduced his contributions (the initial receipt, or increase, of public assistance or other relief is not considered such an assumption of support).

§ 404.351 "Agreement or court order" defined.

For the purposes of § 404.335(b)(8), the terms "court order" and "agreement" are defined as follows:

(a) *Court order.* By "court order" is meant any order, judgment, or decree of a court of competent jurisdiction compelling the former husband of a divorced wife to contribute to the latter's support. In determining the existence of such legal compulsion any such order, judgment or decree shall be considered as in full force and effect unless it has expired or has been vacated.

(b) *Agreement.* By "agreement" is meant a legally enforceable contract between the divorced wife and her former husband, made either before or after the divorce, by the terms of which he agreed to contribute to her support.

§ 404.352 Minimum monthly survivor's insurance benefit amount.

When only one person is entitled to survivor's insurance benefits for a month, the amount of such monthly survivor's insurance benefit, before any reduction under § 404.353, shall not be less than:

(a) $40 for months beginning with August 1961;

(b) $33 for months after December 1958 and before August 1961;

(c) $30 for months after August 1954 and before January 1959.

§ 404.353 Simultaneous entitlement to more than one type of benefit.

(a) *Old-age insurance benefit and other benefit.* An individual may for a month be simultaneously entitled to an old-age insurance benefit based on his earnings and to another monthly benefit based on the earnings of another individual if such other benefit, prior to any reduction under § 404.403 or section 202(q) of the Act, is greater than the primary insurance amount which is the basis of such individual's old-age insurance benefit. The amount of the benefit, other than the old-age insurance benefit, however, shall be reduced in accordance with § 404.407.

(b) *Disability insurance benefit and benefits.* (1) Except as provided in subparagraph (2) of this paragraph, an individual may for a month be simultaneously entitled to a disability insurance benefit based on his earnings and to another monthly benefit based on another individual's earnings record if such other benefit, prior to any reduction under § 404.403 or section 202(q) of the Act, is greater than the disability insurance benefit. Such other benefit, however, shall be reduced as provided in § 404.407.

(2) If for any month prior to the month in which an individual attains age 65, such individual is entitled to a widow's, widower's, or parent's insurance benefit or to an old-age, wife's, or husband's insurance benefit which is reduced under section 202(q) of the Act, such individual may not, for any month after the first month for which such individual was so entitled become entitled to disability insurance benefits.

(c) *Both old-age and disability insurance benefits involved.* For months prior to August 1961, a woman, entitled to a disability insurance benefit, who later becomes entitled to an old-age insurance benefit for a month prior to the month in which the application for old-age insurance benefits is filed but no earlier than the first month for which she was entitled to the disability insurance benefit, would be entitled to both the disability and an old-age insurance benefit for the month before the month in which the application for old-age insurance benefits was filed. The disability insurance benefit was reduced by an amount equal to the old-age insurance benefit after reduction under section 202(q) of the Act. For months beginning with August 1961, the woman would be entitled to the old-age insur-

ance benefit beginning with the month in which the application for such benefit is filed and entitlement to disability insurance benefits would terminate with the month before the month for which she became entitled to old-age insurance benefits.

(d) *Child's insurance benefits.* A child may, for any month, be entitled to a child's insurance benefit on more than one individual's earnings if all the conditions for entitlement described in § 404.320 are met with respect to each claim. If two or more children could upon application be entitled to child's insurance benefits based on the earnings of more than one individual, all of such children entitled to benefits based on the earnings of one individual will (without the necessity of filing application) be deemed entitled to child's insurance benefits (if otherwise eligible) based on all earnings records with respect to which at least one of such children has filed application. In any case in which a child's entitlement to more than one child's insurance benefit is established for a month, such child shall be entitled only to the child's insurance benefit for such month which is based on the earnings of the individual who has the highest primary insurance amount.

(e) *Entitlement to more than one benefit where not all benefits are child's insurance benefits and no benefit is an old-age or disability insurance benefit.* If an individual is entitled for any month to more than one monthly benefit payable under the provisions of this subpart, none of which is an old-age or disability insurance benefit and all of which are not child's insurance benefits, only the greater of the monthly benefits to which he would (but for the provisions of this paragraph) otherwise be entitled shall be payable for such month.

§ 404.354 Status of individual entitled to benefits prior to September 1950.

Section 101(c) of the Social Security Act Amendments of 1950 (64 Stat. 488) provided that an individual who was entitled to monthly insurance benefits under title II of the Social Security Act as in effect prior to the effective date of the Social Security Act Amendments of 1950, and who would have been entitled to such benefits for September 1950 but for the enactment of the Social Security Act Amendments of 1950, is automatically entitled to the corresponding monthly benefits under the Act as amended as though such individual met the conditions of entitlement and became entitled to such benefits in September 1950.

§ 404.355 Lump-sum death payments; general.

A lump-sum death payment is payable to one or more of the persons described in §§ 404.356–404.362 based upon the earnings of a deceased individual if:

(a) The individual died after August 31, 1950 either fully or currently insured (see Subpart B of this part); and

(b) An application for such lump sum is filed within 2 years after the date of death of the insured individual or, in the case of a surviving widow or widower of the deceased, such widow or widower was entitled to wife's or husband's insurance benefits, as the case may be, on the basis of the deceased's earnings for the month preceding the month of death. See Subpart G of this part for provisions regarding the extension, under certain conditions, of the time for filing application for the lump-sum death payment.

§ 404.356 Lump-sum death payments; widow or widower.

A lump-sum death payment is payable to the widow or widower (as defined in § 404.1101) of a deceased individual if such widow or widower was "living in the same household" (as defined in § 404.1112) with the deceased at the time of his death, and the conditions described in § 404.355 are met, except that no application for such lump sum is necessary where such widow or widower was entitled to wife's or husband's insurance benefits, as the case may be, on the basis of the earnings of the deceased individual for the month preceding the month of his death.

§ 404.357 Lump-sum death payments; no eligible widow or widower.

The lump sum is payable to the person or persons described in § 404.358 or § 404.360 if:

(a) The deceased individual is not survived by a widow or widower who meets the requirements in § 404.356 (without regard to whether such widow or widower has filed application for the lump-sum death payment); or

(b) The deceased individual was survived by a widow or widower who met all the requirements for entitlement to the lump-sum death payment (see § 404.356) but such widow or widower died before receiving payment.

§ 404.358 Lump-sum death payments; funeral homes.

If all or part of the burial expenses of the deceased insured individual which are incurred by, or through, a funeral home (or funeral homes) remain unpaid, the lump sum shall be paid to such funeral home (or funeral homes) to the extent such burial expenses remain unpaid, provided that:

(a) A person who has assumed responsibility (see § 404.359) for payment of all or part of such burial expenses files application (in accordance with § 404.355) requesting that the lump sum be paid to such funeral home (or funeral homes); or

(b) At least 90 days have elapsed from the date of death of the insured individual; and

(1) No one has assumed responsibility (see § 404.359) for the payment of such burial expenses prior to the expiration of such period; and

(2) An application for the lump-sum death payment is filed in accordance with § 404.355(b) by a representative of such funeral home (or funeral homes).

§ 404.359 Lump-sum death payments; assumption of responsibility for payment of burial expenses.

(a) For purposes of § 404.358, a person shall be considered to have assumed the responsibility for the payment of burial expenses incurred by, or through, a funeral home, except as provided in paragraph (b) of this section, if there is a bona fide agreement or understanding, either written or oral, between such person and the funeral home that such person will pay all or part of such burial expenses. It is not necessary that such agreement or understanding constitute a legally enforceable contract. An agreement or understanding with the funeral home that payment will be made only under certain conditions is, for purposes of this section, considered to be an assumption of responsibility to pay burial expenses even if such conditions have not occurred at the time of the filing of the application required by § 404.358(a) or before the expiration of the 90 day period referred to in § 404.358(b). For purposes of this section, a person under a legal obligation to pay burial expenses which is not the result of an agreement or understanding with a funeral home, shall not be considered, by reason of such obligation alone, to have "assumed responsibility" for payment of the burial expenses incurred by, or through a funeral home.

(b) A person described in paragraph (a) of this section will not be considered to have "assumed responsibility" for the payment of burial expenses for purposes of § 404.358 if such person:

(1) Dies before filing application requesting that payment of the lump-sum death payment be made to a funeral home by, or through, which burial expenses were incurred; or

(2) Is finally convicted by a court of competent jurisdiction of the felonious homicide of the deceased (see § 404.364).

§ 404.360 Lump-sum death payments; persons equitably entitled.

(a) *Expenses incurred by or through a funeral home.* If any part of the lump-sum death payment remains unpaid after payment pursuant to § 404.358, such amount shall be paid to any person or persons equitably entitled thereto, to the extent and in the proportions that such person or persons paid the burial expenses of the insured individual incurred by, or through, a funeral home (or funeral homes) provided that:

(1) All of the burial expenses of the insured individual incurred by, or through, a funeral home (or funeral homes) have been paid, including payments, if any, made under § 404.358; and

(2) All of the conditions in § 404.355 are met.

(b) *Expenses other than those incurred by or through a funeral home.* If any part of the lump-sum death payment remains unpaid after payment, if any, pursuant to § 404.358 and paragraph (a) of this section, then such amount shall be payable to any person or persons equitably entitled thereto upon the filing of an application pursuant to § 404.355, to the extent and in the proportion that such person or persons paid expenses in connection with the burial of the insured individual in the following order of priority.

(1) Expenses of opening and closing the grave;

(2) Expenses of providing the burial plot;

(3) Any remaining expenses in connection with the burial of the insured individual.

(c) *"Person or persons equitably entitled."* The term "person or persons equitably entitled" includes, but is not limited to, the following:

(1) An organization exempt from the payment of taxes under section 501(c)(3) or section 501(c)(13) of the Internal Revenue Code of 1954, furnishing goods or services in connection with the burial of the deceased;

(2) A State or any political subdivision thereof, or any instrumentality of one or more of the foregoing, furnishing goods or services in connection with the burial of the deceased;

(3) A funeral director furnishing goods or services (but only to the extent of the cost of such goods furnished or the actual expenditures from his own funds for the services specifically purchased for such burial) for the burial of:

(i) His spouse, child, stepchild, grandchild, parent, stepparent, grandparent, brother, or sister (including a relative by adoption); and

(ii) Any other relative, whether by blood, marriage, or adoption, living in the same household with the funeral director at the time of such relative's death.

(4) A home for the aged or sick exempt from the payment of taxes under section 501(c) of the Internal Revenue Code of 1954, paying the expenses of, or furnishing goods or services in connection with, the burial of an inmate or guest.

(5) An organization, exempt from the payment of taxes under section 501(c)(8) of the Internal Revenue Code of 1954, paying the expenses of burial of a member (or one of the family of a member) of such organization, except to the extent such payment was pursuant to a plan or system providing for the payment of a fixed sum upon the death of such person, or was required by an express contract with the member.

(d) *Person or persons not "equitably entitled."* The term "person or persons equitably entitled" does not include, among others, any of the following:

(1) The United States Government or any wholly owned instrumentality thereof;

(2) A person under contractual obligation to pay the burial expenses of the deceased (except as provided in subparagraphs (4) and (5) of paragraph (c) of this section), to the extent of such obligation;

(3) An employer paying the expenses of burial of an employee, or an organization paying the expenses of burial of a member (except as provided in subparagraphs (4) and (5) of paragraph (c) of this section), to the extent that the payment by such employer or organization is pursuant to a plan, system, or general practice of such employer or organization;

(4) A person, other than one specified in subparagraphs (1), (2), (3), or (4) of paragraph (c) of this section, furnishing goods or services in connection with the burial of the deceased, to the extent of the goods or services furnished;

(5) A person who has been, or will be, reimbursed for burial expenses paid, to the extent of such reimbursement;

(6) A foreign government or any political subdivision thereof or any wholly owned instrumentality of any one or more of the foregoing.

(e) *"Equitable entitlement" where insured individual died before September 13, 1960.* Where the insured individual died before September 13, 1960, the determination as to whether payment of the lump sum is to be made to the person or persons who paid the burial expenses of the deceased shall be made without regard to the provisions of § 404.358 and the provisions of paragraphs (a) and (b) of this section provided an application for such payment had been filed before December 1960, and entitlement to all or part of the lump-sum death payment is established on the basis of such application. In such case, the lump-sum death payment is payable to any person or persons equitably entitled thereto to the extent, and in the proportion, that such person or persons paid the burial expenses of the insured individual.

§ 404.361 Lump-sum death payments; estate equitably entitled.

Where an estate is a "person equitably entitled" to a lump sum payment shall be made to the estate as follows:

(a) *Payment to legal representative of estate.* Where there is a legal representative of the estate, payment of any amount of the lump sum due to the estate will be made to such legal representative.

(b) *Payment to relative of deceased.* Where it appears reasonably certain that a legal representative of an estate has not and will not be appointed, or where a legal representative has been discharged, application may be filed on behalf of the deceased individual's estate by a relative (by blood, marriage, or adoption) of the deceased individual and payment of any lump sum due the estate shall be made to such applicant on behalf of the estate if:

(1) Such applicant agrees to distribute the payment to the person or persons entitled thereto under applicable State or foreign law and to account therefor to a legal representative of the estate if one should be appointed; and

(2) Consent to payment to such applicant is obtained from the spouse of the deceased (if such spouse is readily available, and is not the applicant) and, whether or not the applicant is the spouse, from all readily available members within the group of relatives closest in kinship to the deceased as determined by the following order:

(i) Children and the children of any deceased child;

(ii) Parents;

(iii) Brothers and sisters and children of deceased brothers and sisters;

(iv) All other relatives by blood or adoption, the closeness of relationship being determined according to the law of the domicile of the deceased insured individual.

Consent to payment to the applicant is not required under this subparagraph from any relative of the deceased insured individual in any case where the amount due the estate, if divided equally among the applicant and each of the relatives (including, if any, the spouse of the deceased) from whom consent would ordinarily be required under the provisions of this subparagraph, would result in a payment to each individual of $15 or less.

§ 404.362 Lump-sum death payments; individual paying burial expenses dies before collecting the lump sum.

In any case in which a person who is equitably entitled to a lump-sum death payment by virtue of having paid the burial expenses of the deceased insured individual (see § 404.360) dies before collecting the lump sum, payment may be made to the estate of the equitably entitled person in the manner prescribed in § 404.361 except that, if the spouse of such deceased equitably entitled person files application for payment on behalf of such person's estate, consent of other relatives to payment being made to such spouse as would ordinarily be required by § 404.361(b) need not be obtained from such other relatives.

§ 404.363 Lump-sum death payments; amount of payment.

(a) *Widow or widower.* The amount of the lump-sum death payment to a deceased insured individual's widow or widower, who is entitled to such payment under § 404.356, is equal to three times the deceased's primary insurance amount, or $255, whichever is the least;

(b) *Funeral homes.* When payment of the lump sum is to be made to a funeral home under the provisions of § 404.358, the amount payable is determined as follows:

(1) *One funeral home.* If payment of the lump sum is to be made to one funeral home, the amount payable to such funeral home is an amount equal to whichever of the following is the least:

(i) The amount of the unpaid burial expenses incurred by or through such funeral home;

(ii) Three times the primary insurance amount of the deceased individual; or

(iii) $255.

(2) *More than one funeral home.* If payment of the lump sum is to be made to more than one funeral home, the amount of the lump sum that is to be paid (subject to the limitations of subparagraph (1) of this paragraph) to each funeral home is:

(i) The amount of the lump sum remaining, if any, after payment has been made to a funeral home in accordance with subparagraph (1) of this paragraph; or

(ii) Where payment is being made to more than one funeral home at the same time, the amount of the lump sum paid to each such funeral home shall be in the amount designated by the applicant who assumed responsibility for payment of the burial expenses incurred by, or through, such funeral homes. If there is more than one such applicant requesting payment to different funeral homes, the share of the lump sum paid to each such funeral home shall bear the same proportion to the total lump sum pay-

able as the amount of the unpaid burial expenses incurred by, or through, such funeral home bears to the total unpaid burial expenses incurred by or through all the funeral homes that are to receive payment of a part of the lump sum.

(c) *Person or persons paying burial expenses incurred by or through a funeral home.* When payment of a lump sum is to be made to a person, or persons, who paid burial expenses incurred by, or through, a funeral home, or funeral homes (see § 404.360(a)), the amount payable to each such person is an amount equal to whichever of the following is the least:

(1) The amount of such burial expenses paid by such person;

(2) Three times the primary insurance amount of the deceased individual;

(3) $255;

(4) The amount of the lump sum remaining, if any, after payment has been made to a funeral home, or funeral homes, in accordance with paragraph (b) of this section; or

(5) An amount which bears the same proportion to the lump sum payable (as determined under the provisions of the preceding subparagraphs of this paragraph) as the amount of the burial expenses paid by such person bears to the total of the burial expenses incurred by, or through, a funeral home, or funeral homes.

(d) *Person or persons paying burial expenses other than those incurred by or through a funeral home.* When payment of the lump sum is to be made to a person who paid burial expenses other than those incurred by, or through, a funeral home, or funeral homes (see § 404.360(b)), or where payment is to be made to more than one person who paid such burial expenses which are on the same level of priority (see § 404.360 (b)(1)–(3)), the amount payable to each such person shall be an amount equal to whichever of the following is the least:

(1) The amount of such burial expenses paid by such person;

(2) Three times the primary insurance amount of the deceased individual;

(3) $255;

(4) The amount of the lump sum remaining unpaid (if any), after payment has been made to:

(i) A funeral home, or funeral homes, in accordance with the provisions of paragraph (b) of this section; and

(ii) A person, or persons, who paid burial expenses incurred by, or through, a funeral home, or funeral homes, in accordance with paragraph (c) of this section; and

(iii) A person, or persons, who paid burial expenses, other than those incurred by, or through, a funeral home, or funeral homes, which are on a higher level of priority (see § 404.360(b)(1)–(3)) than the expenses which constitute the basis for this payment of the lump sum; or

(5) An amount which bears the same proportion to the total lump sum payable (as determined under subparagraphs (1) through (4) of this paragraph) as the amount of the burial expenses (other than those incurred by, or through, a funeral home, or funeral homes) which such person paid (and which are the basis for this payment of the lump sum to such person) bears to the total of the burial expenses which are on the same level of priority as determined in accordance with § 404.360(b)(1)–(3)).

(e) *Person or persons "equitably entitled"; insured individual died before September 13, 1960.* Where the insured individual died before September 13, 1960, and, in accordance with § 404.360(e), the lump sum is payable to the equitably entitled person or persons who paid the burial expenses of the deceased, the amount of the lump sum payable is determined as follows:

(1) If only one person is equitably entitled, the amount of the lump sum payable is an amount equal to whichever of the following is the least:

(i) The amount of the burial expenses paid by the applicant;

(ii) Three times the primary insurance amount of the deceased; or

(iii) $255;

(2) If two or more persons are equitably entitled, the total lump sum which may be paid shall be whichever of the following is the least:

(i) Three times the primary insurance amount of the deceased;

(ii) $255; or

(iii) The total amount of burial expenses paid by all persons equitably entitled.

Each equitably entitled applicant shall be paid an amount which bears the same proportion to the total burial expenses paid by all persons equitably entitled, but in no event shall the amount paid to such person exceed the amount of burial expenses paid by him.

§ 404.364 Effect of conviction of felonious homicide on entitlement to benefits or lump sum based on the deceased's earnings.

A person who has been finally convicted by a court of competent jurisdiction of the felonious homicide of an insured individual shall not be entitled to monthly benefits or to the lump-sum death payment based upon the earnings of such deceased individual and such convicted person shall be considered nonexistent in determining the entitlement of other persons to monthly benefits or the lump-sum death payment based on the deceased's earnings.

§ 404.365 Suspension of benefits where individual is deported; prohibition against payment of lump sum based on deported individual's earnings records.

(a) *Old-age or disability insurance benefits.* If after September 1, 1954, an individual is deported under the provisions of paragraphs (1), (2), (4), (5), (6), (7), (10), (11), (12), (14), (15), (16), (17), or (18) of section 241(a) of the Immigration and Nationality Act, no old-age or disability insurance benefits shall be paid to such individual for any month occurring after the month in which the Administration is notified by the Attorney General of the United States that such individual has been deported and prior to the month in which such individual is thereafter lawfully readmitted to the United States for permanent residence.

(b) *Other monthly benefits.* If, under the provisions as described in paragraph (a) of this section, no old-age or disability insurance benefit could be paid to an individual (or if no benefit can be paid to him if he is alive) for any month, no monthly insurance benefits shall be paid for such month based upon such individual's earnings to any other person who is not a citizen of the United States and is outside the United States for any part of such month.

(c) *Lump-sum death payment.* No lump-sum death payment shall be paid on the basis of the earnings of an individual deported under paragraphs (1), (2), (4), (5), (6), (7), (10), (11), (12), (14), (15), (16), (17), or (18) of section 241(a) of the Immigration and Nationality Act, if such individual dies in or after the month in which notice of his deportation is received by the Secretary and prior to the month in which such individual is thereafter lawfully readmitted to the United States for permanent residence.

2. *Effective date.* The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER.

Dated: August 13, 1964.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: August 21, 1964.

ANTHONY J. CELEBREZZE,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 64-8679; Filed, Aug. 26, 1964; 8:45 a.m.]

Title 12—BANKS AND BANKING

Chapter I—Bureau of the Comptroller of the Currency, Department of the Treasury

PART 1—INVESTMENT SECURITIES REGULATION

Bonds

§ 1.145 Columbia Storage Power Exchange Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule on the eligibility of the $320,700,000 Columbia Storage Power Exchange Revenue Bonds of the Columbia Storage Power Exchange for investment by National Banks pursuant to Paragraph Seventh of 12 U.S.C. 24, and for investment by state banks which are members of the Federal Reserve System pursuant to 12 U.S.C. 335.

(b) *Opinion.* (1) Pursuant to a treaty dated January 17, 1961, between Canada and the United States, Canada is entitled to one-half of the increase in dependable capacity and average annual usable energy in the United States resulting from the construction and operation of three storage dams in British Columbia. Canada has agreed to sell this Entitlement to the Columbia Storage Power Exchange (CSPE) for $254.4

million for a term of years expiring 30 years from the respective dates on which the storage dams are required to be fully operative for power purposes.

(2) CSPE was organized on May 11, 1964, under the nonprofit, nonstock corporation law of the State of Washington to act as the single purchaser of the Canadian Entitlement for the benefit and with the approval of three Public Utility Districts in the State of Washington which own hydroelectric projects on the main stream of the Columbia River. The corporate purposes of CSPE are limited to the execution, performance and enforement of the contracts and indentures necessary to make a single purchase of the Canadian Entitlement, to incur indebtedness necessary to finance such purchase, and to dispose of the Canadian Entitlement under such arrangements as may be necessary to retire such indebtedness and pay the necessary incidental expenses of the corporation.

(3) The proceeds from the sale of the Bonds will be used by CSPE to purchase the Canadian Entitlement and to pay the estimated corporate expenses of CSPE and interest on the Bonds to and including April 1, 1969. As security for these Bonds, CSPE has entered into Canadian Entitlement Exchange Agreements with the Bonneville Power Administrator acting on behalf of himself and the United States Government, and participants consisting of 14 utility districts, 11 municipalities, 12 cooperatives and four utility companies. The Exchange Agreements provide for the transfer and assignment by CSPE of 100 percent of the Canadian Entitlement to the participants on a percentage share basis and the transfer and assignment by the participants of the Canadian Entitlement to the Bonneville Power Administrator in exchange for specified annual amounts of capacity and energy to be made available during the period from April 1, 1968, through March 31, 2003. The Exchange Agreements provide that the obligation of the Administrator to make available such capacity and energy to the participants is unconditional and is not affected by any failure by Canada to construct, maintain or operate the storage dams. In the case of certain emergencies, the Administrator may interrupt or reduce deliveries of capacity or energy to a participant and not be liable for damage sustained by a participant as a result. If for any other reason the Administrator does not make capacity or energy available to a participant, payments by the participant to CSPE shall be reduced accordingly and the Administrator is obligated to pay to the participant, for payment to CSPE an amount of cash equal to the amount by which such payments are reduced. Beginning April 1969, the aggregate annual payments to CSPE are required to be sufficient to pay principal and interest on these Bonds and the expenses of CSPE. In the event that one or more participants fail or refuse to make any payment to CSPE and such failure continues for 60 days, each other participant's payment will be automatically increased to make up the difference, provided such increase is not in excess of 25 percent of its original participation.

(c) *Ruling.* It is the conclusion of this Office that a bank may in these circumstances determine that there is adequate evidence that this obligor will be able to perform all that it undertakes to perform, including all debt service requirements, and that the 1964 Revenue Bonds of the Columbia Storage Power Exchange, East Winatehee, Washington, meet requirements of § 1.5(a) and, therefore, are eligible for investment by National Banks under the provisions and subject to the 10 percent limitation of Paragraph Seventh of 12 U.S.C. 24, and for investment by state banks which are members of the Federal Reserve System pursuant to 12 U.S.C. 335.

Dated: August 21, 1964.

[SEAL] JAMES J. SAXON,
Comptroller of the Currency.

[F.R. Doc. 64-8700; Filed, Aug. 26, 1964; 8:48 a.m.]

PART 1—INVESTMENT SECURITIES REGULATION

Bonds

§ 1.144 Fresno City-County Community and Convention Center Authority Revenue Bonds.

(a) *Request.* The Comptroller of the Currency has been requested to rule that the $8,500,000, Revenue Bonds, Series A, of the Fresno City-County Community and Convention Center Authority, California are eligible for purchase, dealing in, underwriting and unlimited holding by National Banks under Paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The proceeds from the sale of these bonds will be used to purchase land located three blocks from the new eighty-five acre shopping mall in the center of Fresno, and to construct thereon a Community and Convention Center. The Authority is a public entity separate and apart from the City of Fresno and the County of Fresno which was created by a Joint Exercise of Powers Agreement by said city and county as prescribed by California law. Pursuant to the authorization contained in the laws of California and in the above described Agreement, the City of Fresno has entered into a forty-year lease with the Authority whereby the City unconditionally agrees to pay scheduled rentals which will be sufficient in each year to pay principal and interest on these bonds as such comes due. The City also agrees to pay all other charges, carry insurance, maintain the property and to provide all utilities, maintenance and management for the Community and Convention Center.

(2) As a "Charter City" under California law, Fresno may levy unlimited taxes for debt or operational purposes. The County of Fresno agrees to contribute annually $170,000 to the City as long as the Authority has outstanding bonds but in no event for a period longer than thirty years in consideration of the City operating the facilities for the benefit of the inhabitants of the entire County. The City of Fresno, a political subdivision of the State of California, which possesses resources sufficient to justify faith and credit, has, as authorized by the constitution and laws of California, thus pledged its full faith and credit to make payments to the Authority of amounts which will be sufficient to provide for all required payments in connection with these bonds.

(c) *Ruling.* Following the principals and definitions set forth in paragraph (d) and (e) of § 1.3, it is our conclusion that the $8,500,000 Revenue Bonds, Series A of the Fresno City-County Community and Convention Center Authority, California, are eligible for purchase, dealing in, underwriting and unlimited holding by National Banks.

Dated: August 21, 1964.

[SEAL] JAMES J. SAXON,
Comptroller of the Currency.

[F.R. Doc. 64-8701; Filed, Aug. 26, 1964; 8:48 a.m.]

PART 1—INVESTMENT SECURITIES REGULATION

Music Center Lease Co.

§ 1.143 Revised Ruling on the Music Center Lease Company, Los Angeles, California.

(a) *Request.* The Comptroller of the Currency has been requested to reconsider an earlier ruling, issued on July 18, 1962, and published at § 1.113 of this part, that bonds of the Music Center Lease Company, Los Angeles, California, are ineligible for investment by National Banks under paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The Music Center Lease Company is a nonprofit corporation acting for Los Angeles County whose assets and net revenue, after discharge of its bonds or other evidences of indebtedness, will be dedicated to Los Angeles County.

(2) The County of Los Angeles has leased to the Music Center Lease Company for a period of 30 years certain property in the civic center area of downtown Los Angeles. The lease company will construct, in accordance with plans and specifications furnished by the County, a pavilion and related facilities which it will in turn lease back to the County for a period of 30 years. These facilities are for the use of the public as an auditorium and music center. The cost of construction is estimated at $18,850,000 and will be financed by $6,000,000 in contributions and $13,730,000 of leasehold mortgage bonds. The bonds will have a serial maturity beginning with $30,000, due in 1965 and gradually increasing to $825,000 in 1991, the final maturity.

(3) The basic security supporting the bonds is the lease to the County for the use of the pavilion, at an annual rental of $845,000 upon completion, which is estimated to be November 1, 1964. These bonds are further secured by all buildings and improvements constructed on the above-described land. The payments from the County should be sufficient to cover the interest on the bonds and amortize the principal upon maturity. It now appears that there is sufficient demand for these bonds such as would enable a bank to liquidate its hold-

ings with reasonable promptness at a price that corresponds reasonably to its fair value. Therefore, there is evidence for a bank to make a determination that the obligor will be able to perform all that it undertakes to perform in connection with the security, including all debt service requirements.

(c) *Ruling.* It is our conclusion that a bank may in these circumstances determine that there is adequate evidence that this nonprofit company will be able to perform all that it undertakes to perform and that the Leasehold Mortgage Bonds of the Music Center Lease Company, Los Angeles, California, meet the requirements of § 1.5(a) and are eligible for investment by National Banks under the provisions and subject to the 10 percent limitation of paragraph Seventh of 12 U.S.C. 24.

Dated: August 21, 1964.

JAMES J. SAXON,
Comptroller of the Currency.

[F.R. Doc. 64-8702; Filed, Aug. 26, 1964; 8:48 a.m.]

PART 1—INVESTMENT SECURITIES REGULATION

Bonds

§ 1.146 School Building Revenue Bonds, Series of 1964, of the Corry Area Schools Authority, Erie and Warren Counties, Pennsylvania.

(a) *Request.* The Comptroller of the Currency has been requested to rule that the $570,000 School Building Revenue Bonds, Series of 1964, of the Corry Area Schools Authority, Erie and Warren Counties, Pennsylvania, are eligible for purchase, dealing in, underwriting and unlimited holding by National Bank under the provisions of Paragraph Seventh of 12 U.S.C. 24.

(b) *Opinion.* (1) The proceeds of the bonds will be used for additions and improvements to the existing senior high school building. The Corry Area Schools Authority is a body corporate and politic organized under the Municipal Authorities Act of Pennsylvania pursuant to resolutions of the School Districts of the City of Corry, Borough of Elgin, Townships of Concord, Wayne, Columbus, and Spring Creek. The Authority has entered into a lease agreement with each of the School Districts pursuant to which the Districts have agreed to deposit in the debt service fund of the Authority amounts equal to the average annual principal and interest requirements of this Series of Bonds as well as the amount necessary to cover annual administrative expenses of the Authority in connection with this issue of bonds.

(2) School Districts in the Commonwealth of Pennsylvania may enter into long-term leases for school buildings if all obligations thereunder can be met from "current revenues," which the Supreme Court of Pennsylvania has defined as being taxes for the ensuing year and all liquid assets, such as delinquent taxes, licenses, appropriations from the Commonwealth, fines and other revenues which, in the judgment of the authorities of the School Districts are collectible. Under the Public School Code of 1949, School Districts are permitted to impose an annual tax on all taxable real estate of sufficient millage to provide funds to pay rentals due any municipal authority, and the Commonwealth of Pennsylvania may render financial assistance to the School Districts by means of a system of reimbursement in the current fiscal year, based on expenditures of the School Districts made in the preceding fiscal year, as prescribed by a certain formula. In addition, Pennsylvania law prescribes that where any School District fails to pay rental due a Municipal Authority pursuant to a lease, the State Superintendent of Public Instructions may notify such District of its obligation, withhold out of any State appropriation due such District an amount equal to the amount of rental owing and pay such amount to the Municipal Authority.

(3) The bonds of the Authority are the general obligations of a public authority of the Commonwealth of Pennsylvania. Its resources include the obligation of the School Districts to make rental payments which will be sufficient to provide for all required payments in connection with the bonds. These lease rental obligations are supported by the taxing powers of the School Districts and are buttressed by the financial assistance of the Commonwealth of Pennsylvania, and supervision as to payment of rentals by the State Superintendent of Public Instructions. The Commonwealth has thus undertaken to provide for the payment of the obligations of its duly constituted Authority.

(c) *Ruling.* It is our conclusion, therefore, based upon principles applied in prior rulings of this Office, that the $570,000 School Building Revenue Bonds, Series of 1964, of the Corry Area Schools Authority, Erie and Warren Counties, Pennsylvania, are "public securities" as set forth in § 1.3(e) and are, therefore, eligible for purchase, dealing in, underwriting and unlimited holding under Paragraph Seventh of 12 U.S.C. 24.

Dated: August 21, 1964.

JAMES J. SAXON,
Comptroller of the Currency.

[F.R. Doc. 64-8703; Filed, Aug. 26, 1964; 8:48 a.m.]

CORPORATE PRACTICES AND PROCEDURES OF NATIONAL BANKS

These amendments, issued pursuant to the authority contained in the national banking laws (R.S. 324 et seq., as amended; 12 U.S.C. 1 et seq.) and Public Law 88-467, the "Securities Acts Amendments of 1964," deal with certain of the corporate practices and procedures of national banks. Notice of the proposed amendments was published in the FEDERAL REGISTER on June 16, 1964 (29 F.R. 7676). All comments and suggested revisions received have been considered and some have resulted in changes which have been incorporated into these amendments.

Parts 10, 11, 16 and § 12.1 will become effective on September 1, 1964; the remainder of Part 12 will become effective on October 1, 1964.

Chapter I, Title 12, of the Code of Federal Regulations of the United States of America is amended as follows:

Part 10 is amended to read:

PART 10—ANNUAL REPORT TO STOCKHOLDERS

Sec.
10.1 Scope and application.
10.2 No private right of action hereunder.
10.3 Information to be furnished stockholders.
10.4 Filing of report.

AUTHORITY: The provisions of this Part 10 issued under R.S. 324 et seq. as amended; 12 U.S.C. 1 et seq.

§ 10.1 Scope and application.

(a) Every national bank having a class of equity security held of record by seven hundred and fifty or more persons shall mail a written report containing, as a minimum, the financial and other information called for by this part, to each of its stockholders in time to be received by them prior to the bank's annual meeting, but in no event later than 60 days after the close of the fiscal year.

(b) On and after May 1, 1965, compliance with the requirements of § 10.4 shall be deemed a registration under section 12(g) of the Securities and Exchange Act of 1934, as amended, of any class of equity securities heretofore issued by a national bank and held of record by seven hundred and fifty or more persons.

(c) Notwithstanding the foregoing, any national bank prior to listing any class of its securities on a national securities exchange shall have filed a registration statement in accordance with the applicable provisions of Part 16 of this chapter, which has been declared effective by the Comptroller of the Currency.

[Instruction: This part applies to issues of equity securities presently outstanding that are now held or may in the future become held by seven hundred and fifty or more persons. The registration requirements applicable to public offerings made hereafter are found in Part 16 of this chapter.]

§ 10.2 No private right of action hereunder.

The enforcement of Parts 10, 11 and 12.1 of this chapter shall be a function solely of the Office of the Comptroller of the Currency and no provision of these regulations (12 CFR Parts 10, 11 and § 12.1) is intended to confer any private right of action on any stockholder or other person against a national bank.

§ 10.3 Information to be furnished stockholders.

The annual report shall bear the written, printed or facsimile signature of the Chairman of the Board, President or other executive officer of the bank and shall include, as a minimum, the following information:

(a) Comparative balance sheets as of the close of the last fiscal year and as of the close of the preceding fiscal year.

(b) Comparative statements disclosing net operating income after applicable federal income taxes, net operating income per share, and cash dividends paid per share for the fiscal year and preceding fiscal year.

(c) A comparative reconciliation of capital accounts which summarizes the

changes in the capital accounts for the last fiscal year and the preceding fiscal year.

§ 10.4 Filing of report.

Two copies of the annual report shall be filed with the Comptroller of the Currency, Washington, D.C.; one copy with the appropriate Regional Comptroller; and one copy maintained at the office of the bank. Such reports will be available for public inspection upon request, at the principal office of the reporting bank and at the Office of the Comptroller of the Currency, Washington, D.C. during normal business hours.

Part 11 is amended to read:

PART 11—SOLICITATION OF PROXIES

Sec.
11.1 Scope and application.
11.2 Definitions.
11.3 Information to be furnished stockholders.
11.4 Material to be filed with Comptroller.
11.5 Special provisions applicable to election contests.
11.6 Special circumstances.
Schedule A.
Schedule B.
Schedule C.

AUTHORITY: The provisions of this Part 11 issued under R.S. 324 et seq. as amended; 12 U.S.C. 1 et seq.

§ 11.1 Scope and application.

This part shall apply to every solicitation of a proxy with respect to stock of a national bank having a class of equity securities held of record by seven hundred and fifty or more persons.

§ 11.2 Definitions.

(a) The term "principal officer" as used in this part means Chairman of the Board, Vice-Chairman of the Board, President, Senior Vice-President, Cashier, Chairman of the Executive Committee, and any other person who performs functions corresponding to those performed by the foregoing officers.

(b) (1) The terms "solicit" and "solicitation" include:

(i) Any request for a proxy whether or not accompanied by or included in a form of proxy;

(ii) Any request to execute or not to execute, or to revoke, a proxy; or

(iii) The furnishing of a form of proxy or other communication to security holders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

(2) The terms do not include:

(i) Any solicitation by a person in respect of stock of which he is the beneficial owner;

(ii) The action of a broker or other person in respect to stock carried in his name or in the name of his nominee, in forwarding to the beneficial owner of such stock, soliciting material received from the bank, or impartially instructing such beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner desires to give a proxy, or impartially requesting from the beneficial owner instructions as to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date.

(c) The term "person" as used in this part is not limited to natural persons, but also includes corporations, partnerships, pension funds, profit-sharing funds and any other organized group or persons of whatever nature.

§ 11.3 Information to be furnished stockholders.

(a) No solicitation subject to this part shall be made by or on behalf of a national bank unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the applicable information specified in Schedules A and B.

(b) The form of proxy shall afford the person solicited an opportunity to specify his choice between approval or disapproval of each matter or group of related matters referred to therein as intended to be acted upon. The proxy may provide that if the signer does not indicate a choice, the shares represented thereby will be voted in favor of the matters set forth therein.

(c) A proxy may confer discretionary authority with respect to matters which may come before the meeting other than those matters listed in the notice of meeting and proxy statement, provided that the persons on whose behalf the solicitation is made are not aware a reasonable time prior to the time the solicitation is made, that any such other matters are to be presented by or on behalf of the bank or its management for action at the meeting, and provided further that a specific statement to that effect shall be made in the proxy statement or in the form of proxy.

(d) No proxy shall confer authority (1) to vote for the election to any position for which a proposed nominee is not named in the proxy statement, or (2) to vote at any meeting other than the next meeting (or any adjournment thereof) to be held after the date on which the proxy statement and form of proxy are first sent or given to stockholders.

(e) Any person or group of persons, including directors or attorneys for the bank may be designated to act as proxy but not officers, clerks, tellers or bookkeepers of the bank.

§ 11.4 Material to be filed with Comptroller.

(a) Three preliminary copies of the proxy statement and form of proxy and any other soliciting material to be furnished to security holders concurrently therewith shall be filed with the Comptroller at least 10 days prior to the date definitive copies of such material are proposed to be sent or given to security holders, or such shorter period prior to that date as the Comptroller may authorize upon a showing of good cause therefor. Where preliminary copies of material are filed with the Comptroller pursuant to this rule, the distribution to security holders should be deferred until the comments of the Comptroller's staff have been received and complied with. Three copies of the final material shall be mailed to the Comptroller, concurrently with mailing to security holders.

(b) Three preliminary copies of any additional soliciting material, relating to the same meeting or subject matter, furnished to security holders subsequent to the proxy statement shall be filed with the Comptroller at least two days (exclusive of Saturdays, Sundays or holidays) prior to the date copies of such material are first sent or given to security holders, or such shorter period prior to such date as the Comptroller may authorize upon a showing of good cause therefor.

§ 11.5 Special provisions applicable to election contests.

(a) Solicitation to which this section applies: This section applies to any solicitation subject to this part by any person for the purpose of opposing a solicitation subject to this part by any other person with respect to the election of directors at any annual or special meeting of security holders.

(b) For the purpose of this section, the term "participant" includes nominees for whose election proxies are solicited, and any other person, acting alone or in conjunction with one or more other persons, in organizing, directing or financing the solicitation, provided however that such term does not include (1) any person or organization retained or employed by a participant to solicit security holders, or any person who merely transmits proxy soliciting material or performs ministerial or clerical duties; (2) any person employed by a participant in the capacity of attorney, accountant, or advertising, public relations or financial adviser, and whose activities are limited to the performance of his duties in the course of such employment; (3) any person regularly employed as an officer or employee of the issuer or any of its subsidiaries who is not otherwise a participant; or (4) any officer or director of, or any person regularly employed by, any other participant, if such officer, director, or employee is not otherwise a participant.

(c) Filing of information required by Schedule C: (1) No solicitation subject to this section shall be made by any person other than the management of a national bank unless at least five business days prior thereto, or such shorter period as the Comptroller may authorize, there has been filed with the Comptroller by or on behalf of each participant in such solicitation, a statement in triplicate containing the information specified by Schedule C and a copy of any material proposed to be distributed to stockholders in furtherance of such solicitation. [See paragraph (d) of this section for description of material required to be furnished security holders by nonmanagement solicitors.] Where preliminary copies of material are filed with the Comptroller pursuant to this rule, distribution to stockholders should be deferred until the comments of the Comptroller's staff have been received and complied with.

(2) Within five business days after a solicitation subject to this section is made by the management of a national bank, or such longer period as the Comptroller may authorize, there shall be filed with the Comptroller by or on behalf of each management nominee for director a

statement in triplicate containing the information specified by Schedule C.

(3) If, subsequent to the filing of the statements required by subparagraph (1) of this paragraph, additional persons become participants in a solicitation subject to subparagraph (1) of this paragraph, there shall be filed, with the Comptroller, by or on behalf of each such person a statement in triplicate containing the information specified by Schedule C, within three business days after such person becomes a participant, or such longer period as the Comptroller may authorize.

(4) If any material change occurs in the facts reported in any statement filed by or on behalf of any participant, an appropriate amendment to such statement shall be filed promptly with the Comptroller.

(5) Each statement and amendment thereto filed pursuant to this paragraph (c) shall be part of the public files of the Office of the Comptroller of the Currency.

(d) *Furnishing to security holders of information required by Schedule C.* No solicitation subject to this section shall be made by any person other than the management of a national bank unless each person solicited is furnished with a proxy statement containing the information required by Schedule C as to each participant in the solicitation, and also containing such information called for by Schedule A and B as is applicable to the agenda items for which the proxy is solicited, so far as such information is known or is available to the solicitor. Responsibility for the accuracy of information contained in nonmanagement solicitations shall be on the solicitors and not on the bank.

§ 11.6 Special circumstances.

In cases where special circumstances render compliance with one or more of the requirements of this part impracticable, the Comptroller may, in his discretion, modify or waive any such requirement, consistent with the public interest.

SCHEDULE A

Item 1. *Amount of outstanding stock and principal holders thereof.*

(a) State the total number of shares of each class outstanding and the number of shares of each class entitled to vote.

(b) State the date as of which the list of stockholders entitled to vote at the meeting will be determined. If the right to vote is not limited to stockholders of record on that date, indicate the conditions under which other stockholders may be entitled to vote.

Item 2. *Nominees for directors.* If action is to be taken with respect to the election of directors, the following information, to the extent practicable, shall be furnished with respect to each person nominated for election as a director; such person's name, age, present principal occupation or employment and the principal office, if any, with the bank presently held by him.

(b) If the Articles of Association permit the board of directors to increase the number of directors between stockholders' meetings and fill vacancies created thereby, state the number of vacancies which may be so filled.

Item 3. *Remuneration of management.* If directors are to be elected at the meeting in question, furnish the following information as to all direct remuneration paid by the bank during the last calendar year to the following persons for services in all capacities:

(a) The direct aggregate remuneration paid to all principal officers of the bank as a group, without naming them.

(b) The amount set aside or accrued during the last calendar year for all pension or retirement benefits to be paid under an existing plan in the event of retirement with respect to all principal officers as a group, without naming them, except where the amount so set aside or accrued is computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

SCHEDULE B

Item 4. *Bonus, profit sharing, and other remuneration plans.* If action is to be taken with respect to any bonus, profit sharing, or other remuneration plan, furnish the following information:

(a) A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation.

(b) The amounts which would have been distributable under the plan during the last calendar year to (1) directors and principal officers as a group, and (2) to all other employees as a group, if the plan had been in effect.

(c) If the plan to be acted upon may be amended (other than by a vote of security holders) in a manner which would materially increase the cost thereof to the bank or to materially alter the allocation of the benefits as between the groups specified in paragraph (b), the nature of such amendments should be specified.

Item 5. *Pension and retirement plans.* If action is to be taken with respect to any pension or retirement plan, describe briefly the material features of the plan with an indication of the estimated cost of funding past services and the estimated annual payments with respect to current services.

Item 6. *Options, warrants, and rights.* If action is to be taken with respect to the granting or extension of any options, warrants, or rights (all referred to herein as "warrants") to purchase stock of the bank, other than warrants issued to all stockholders on a *pro rata* basis, furnish for such warrants the following information:

(a) The title and amount of stock called for or to be called for, the prices, expiration dates, and other material conditions upon which the warrants may be exercised and the market price of the stock called for or to be called for as of the latest practicable date.

(b) If known, state separately the amount of stock called for or to be called for by warrants received or to be received by the following persons, naming each such person: (1) each director of the bank or each nominee for election as a director of the bank, and (2) each other person who will be entitled to acquire 5 percent or more of the stock called for or to be called for by such warrants.

(c) If known, state also the total amount of the stock called for or to be called for by such warrants, received or to be received by all directors and principal officers of the bank, as a group, without naming them.

Item 7. *Authorization or issuance of securities.* (a) If action is to be taken with respect to the authorization or issuance of any security, furnish the title and amount of securities to be authorized or issued.

(b) If the securities are other than additional share of common stock of a class outstanding, furnish a brief summary of the following, if applicable; dividend, voting, liquidation, pre-emptive, and conversion rights, redemption and sinking fund provisions, interest rate and date of maturity.

[Instruction. This item requires only a brief summary. A complete legal description or a verbatim recitation of the provisions referred to is not required and should not be given.]

(c) If the securities to be authorized or issued are other than additional shares of common stock of a class outstanding, the Comptroller may require financial statements comparable to those contained in the annual report prescribed in part 10 to be furnished.

Item 8. *Amendment of Articles of Association.* If action is to be taken with respect to any amendment of the Articles of Association, or other organizational instruments as to which information is not required above, state briefly the reasons for and general effect of such amendment and the vote needed for its approval.

Item 9. *Mergers, consolidations, acquisitions, and similar matters.*

(a) If action is to be taken with respect to a merger, consolidation, acquisition, or similar matter, furnish in brief outline the following information:

(1) The rights of appraisal or similar rights of dissenters with respect to any matter to be acted upon, and indicate any statutory procedure required to be followed by dissenting security holders in order to perfect such rights.

(2) The material features of the plan or agreement.

(3) The names of the directors and principal officers of the constituent banks together with the number of shares of stock each own beneficially in each of the banks as well as the number of shares each will receive as a result of the merger, acquisition or consolidation.

(4) If any director or officer has entered into or has agreed to enter into an employment contract with the resulting bank, state the name of such officer or director together with a brief description of the contract.

(5) Furnish a table showing the adjusted book value per share of stock of each constituent bank for the last three years together with the pro forma book value per share of the resulting bank.

(6) If available, the range of bid and asked prices for the stock of each constituent bank during the previous year and the currently quoted bid and asked prices.

(7) The percentage of outstanding shares which must approve the transaction before it is consummated.

(b) For each bank involved in a merger, consolidation or acquisition, the following financial statements should be furnished:

(1) A comparative balance sheet as of the close of the last two fiscal years.

(2) A comparative statement of operating income and expenses for each of the last two fiscal years, and as a continuation of each statement, a statement of earnings per share after related taxes and cash dividends paid per share.

(3) A pro forma combined balance sheet and income and expense statement for the last fiscal year giving effect to the necessary adjustments with respect to the resulting bank.

(c) In cases where the resulting bank will be a subsidiary of a bank holding company and shares of the holding company are to be issued to stockholders in lieu of shares in the resulting bank, the applicable financial information required by subparagraph (b) above, shall be furnished for the holding company.

(d) Where stockholders are to receive shares of a holding company, such shares shall be described in the manner required by § 16.4(i) and any material differences in the rights accorded holders of the holding company shares as opposed to the bank shares to be exchanged shall be set forth.

Item 10. *Other proposed action.* If action is to be taken with respect to any matter not specifically referred to above, describe

briefly the substance of each such matter, and the vote needed for its approval.

SCHEDULE C

Item 1. Name, age, and business address of each participant.

Item 2. His principal occupation or employment, the name, type of business and address of the corporation or other organization in which such employment is carried on.

Item 3. If he has been a participant in any other proxy contest within the past ten years, indicate the principals involved, the subject matter of the contest, the outcome thereof, and his relationship to the principals.

Item 4. State the amount of stock of the bank or any of its affiliates owned beneficially, directly or indirectly, by him or members of his family residing with him.

Item 5. State the amount of such stock owned of record but not beneficially by him or members of his family residing with him.

Item 6. If any of the stock specified in Items 4 and 5 was acquired in the last two years, state the dates of acquisition and amounts acquired on each date.

Item 7. The extent of borrowings to purchase shares acquired within the preceding two years, and if funds were borrowed otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, the material provisions of such borrowings and the names of the lenders.

Item 8. Details of any contracts, arrangements or understandings relating to securities of the bank, to which a participant is a party, such as joint venture or option arrangements, puts or calls, guarantees against loss, or guarantees of profit or arrangements as to the division of losses or profits or with respect to the giving or withholding of proxies, and the name or names of the persons with whom such contracts, arrangements or understanding exist.

Item 9. If he has entered into any arrangement or understanding with any person regarding future employment or with respect to any future transaction to which the bank or any of its affiliates will or may be a party, describe such arrangement or understanding.

Item 10. State whether or not he will bear any part of the expense incurred in the solicitation. If so, indicate the amount thereof.

Item 11. Describe any conviction for a felony that occurred during the preceding ten years involving the unlawful possession, conversion or appropriation of money or other property, or the payment of taxes. A negative answer to this item need not be included in any proxy soliciting material.

Part 12 is amended to read:

PART 12—OWNERSHIP REPORTS OF CAPITAL STOCK

Sec.

AUTHORITY: The provisions of this Part 12 issued under R.S. 324 et seq. as amended; 12 U.S.C. 1 et seq.

§ 12.1 Change in control reports.

On and after the date hereof, each national bank shall promptly notify the Comptroller of the Currency whenever a change occurs in the ownership of its outstanding voting stock of sufficient magnitude to effect a change in control of the bank. It shall be the duty of the President or other chief executive officer of the bank to submit such a report whenever he has reason to believe that such a change has taken place. If there is any doubt concerning whether a particular change in ownership is sufficient to effect a change in control, such doubt shall be resolved in favor of submitting a report to the Comptroller. The report shall be in letter form and shall contain the following information to the extent that it is known to the person making the report: (a) The number of shares involved; (b) the identity of the sellers (or transferors); (c) the names of the purchasers (or transferees); (d) the names of the beneficial owners if the shares are registered in another name; (e) the purchase price; (f) the total number of shares owned by the sellers (or transferors); the purchasers (or transferees); and (g) beneficial owners both immediately prior to and after the transaction.

The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the bank.

§ 12.2 Reports by certain persons.

(a) Every principal stockholder, director, or principal officer of a national bank having a class of securities held of record by seven hundred and fifty or more persons, within ten days after becoming such principal stockholder, director, or principal officer, shall file with the Comptroller of the Currency a statement of the amount of each class of the bank's securities of which he is directly or indirectly the beneficial owner.

(b) Initial statements by present principal stockholders, directors and principal officers shall be filed on or before October 1, 1964.

(c) Each person specified in paragraph (a) of this section, within ten days after the close of any calendar month in which there has been a substantial change in his ownership, shall file with the Comptroller a statement indicating his ownership as of the close of the calendar month and any changes in his ownership as have occurred since the last such report.

§ 12.3 Definitions.

(a) The term "principal officer" means Chairman of the Board, President, Chairman of the Executive Committee, Vice Chairman of the Board, Senior Vice President, Cashier, and any other person who performs functions corresponding to those performed by the foregoing officers.

(b) The term "principal stockholder" means any person who is directly or indirectly the beneficial owner of more than 10 percent of outstanding shares of any class of capital stock issued by the bank.

(c) The term "substantial change" means the acquisition or disposition of 500 shares, or more than 5 percent of the outstanding capital stock of the bank whichever is less. If any transaction, when added to previously unreported transactions, could qualify as a "substantial change" as defined herein, all such transactions shall be considered a "substantial change" and be reported.

(d) The term "person" is not limited to natural persons, but also includes corporations, partnerships, pension funds, profit-sharing funds, and any other organized group of persons of whatever nature.

§ 12.4 Filing of statements.

Initial statements of beneficial ownership required by § 12.2 shall be filed on Form OR–1. Statements of changes in such beneficial ownership required by that section shall be filed on Form OR–2. All such statements shall be prepared and filed in accordance with the instructions of the applicable form. All filed statements shall be available for public inspection at their place of filing during normal business hours.

§ 12.5 Exemption of certain transactions.

(a) Any acquisition or disposition of options or shares of stock including stock acquired pursuant to such options, by a director or officer of the bank issuing such stock shall be exempt from the requirements of § 12.2 of these regulations if the stock or option was acquired pursuant to a bonus, profit-sharing, retirement, thrift, savings or similar plan which has been approved by the holders of at least a majority of the outstanding common stock of the issuer, or employee stock option or stock purchase plan which has been approved by the holders of at least two-thirds of the outstanding common stock of the issuer and the Comptroller of the Currency.

(b) Any transaction which has been or shall be exempted by the Comptroller of the Currency from the requirements of § 12.2, shall, insofar as it is otherwise subject to the provisions of section 16(b) of the Securities Exchange Act of 1934, as amended, be likewise exempt from sections 16 (b) and (c) of said Act.

§ 12.6 Persons temporarily exempt from filing statements.

The following persons shall be exempt, for a period of twelve months following their appointment and qualification, from filing the ownership statements required by § 12.2:

(a) Executors or administrators of the estate of a decedent;

(b) guardians or committees for an incompetent;

(c) receivers, trustees in bankruptcy, conservators, liquidating agents, assignees for the benefit of creditors; and

(d) other similar persons.

A new Part 16 is hereby adopted to read:

PART 16—REGISTRATION STATEMENTS AND OFFERING CIRCULARS

SEC.

AUTHORITY: The provisions of this Part 16 issued under R.S. 324 et seq., as amended; 12 U.S.C. 1 et seq.

§ 16.1 Authority and scope of application.

(a) This part is issued under the general authority of the national banking laws, 12 U.S.C. 1 et seq. and P.L. 88–467, and contains all the rules applicable to national banks concerning the public offering of their securities.

(b) This part shall apply to any public offering of a security of an existing national bank, or a new national bank (one which has not yet received its charter), by, for, or on behalf of such bank unless specified herein to the contrary.

(c) This part shall not apply to an offering of a national bank's securities made pursuant to a stock option, bonus, deferred compensation, or similar plan, provided that such plan has been approved by the Comptroller of the Currency.

§ 16.2 Registration of securities of existing national banks.

No existing national bank shall publicly offer or sell any of its securities unless such securities shall have been made the subject of a registration statement filed in the Office of the Comptroller of the Currency (in the case of offers) and declared effective (in the case of sales), except that this section shall not apply in respect of a public offering where prior to such offering no class of the national bank's equity securities is held of record by more than 750 persons or the total public offering price of such offering does not exceed $1,000,000.

§ 16.3 Content of registration statement.

The registration statement and offering circular (which may be identical to the registration statement) filed pursuant to this part shall contain at a minimum the following information:

(a) *Issuer.* On the outside front cover page of the registration statement and offering circular: (1) The exact name and address of the issuing national bank; (2) that the issuance of these securities are subject to the approval of and the regulations of the Comptroller of the Currency of the United States; and (3) the date of filing the registration statement or amendment.

(b) *Distribution.* On the same page referred to in the preceding paragraph state: (1) The number of and dollar amount of securities being offered; (2) the per security and aggregate offering price and the per security and aggregate proceeds to be received by the national bank; (3) the proposed means of distribution; and (4) the expenses to be incurred in connection with the offering.

(c) *Use of proceeds.* A brief statement of the intended uses of the proceeds of the offering.

(d) *Business of the bank.* A brief statement as to the history and nature of the bank's present or proposed operations, including a description of its premises and facilities.

(e) *Financial statements.* The information called for in § 10.3 of this chapter, plus comparable information as at a date no more than 90 days prior to filing the registration statement.

(f) *Management.* (1) The full names and complete residence addresses of all present or proposed directors and principal officers and their principal occupations during the past 10 years. (2) For such of the persons specified in the preceding paragraph who will receive in the current fiscal year or, who have received remuneration in the past fiscal year in excess of $25,000 per year from the national bank, the aggregate amount of remuneration received by all such persons. (3) A brief description of any present or contemplated bonus, retirement, pension, stock option or other similar plan or provisions and the class of persons covered. (4) Any present or proposed material interest or transaction between the bank and any director, or officer thereof, other than in the ordinary course of banking business. Describe any such interest or transaction that occurred within the preceding three years.

(g) *Principal security holders.* To the extent known: (1) The percentage of outstanding securities which will be held as a group, by directors and principal officers and the percentage of such securities which will be held by the public if all the securities offered are sold; and (2) the name, address and relationship to the national bank of any person who beneficially owns or will own 10 percent or more of the outstanding capital stock of the national bank.

(h) *Capitalization and long-term debt.* State in tabular form as of a date within 90 days of filing, the title of and amount in each category of capital and long-term debt account, the amount authorized or to be authorized, and the amount to be outstanding, assuming all the securities being registered are sold.

(i) *Description of registered securities.* (1) In the case of equity securities; briefly describe, if applicable, the dividend, voting, liquidation, pre-emptive, and conversion rights, redemptive and sinking fund provisions, and liability to further calls or assessment. (2) In the case of debt securities; briefly describe, if applicable, the provisions with respect to interest, conversion, maturity, redemption, amortization, sinking fund or retirement; the provisions with respect to the kind and priority of any lien securing the issue; the provisions restricting the declaration of dividends or requiring the maintenance of any ratio of assets, creation or maintenance of reserves or the maintenance of properties; the provisions permitting or restricting the issuance of additional securities, withdrawal of cash deposited against such issuance, incurring of additional debt, release or substitution of assets securing the issue, modification of the terms of the security, and any other similar provisions.

(j) *Legal proceedings.* Any material pending or threatened legal proceedings to which the national bank is a party or of which any of its property is the subject.

§ 16.4 Filing of registration statement and use of offering circular.

(a) No person on behalf of or for an existing national bank shall offer to sell or solicit any offer to buy any security of a national bank being publicly offered by a national bank unless prior to, or at the time of such offer or solicitation, a copy of an offering circular which has been filed pursuant to this part is furnished to the potential purchaser by the person making the offer or solicitation.

(b) No securities of an existing national bank subject to this part shall be sold, or confirmation of sale relating thereto be delivered after sale, by, for, or on behalf of the bank unless at the time of sale or prior to such sale, the purchaser of such security has received an offering circular which forms part of a registration statement declared effective by the Comptroller of the Currency.

(c) The offering circular shall be used in accordance with this part until the completion of the distribution of the registered securities. If the distribution is not completed within 12 months from the effective date of the registration statement, an amended registration statement shall be filed and a revised offering circular shall be used in accordance with this part as for an original offering circular. In no event shall an offering circular be used which is false or misleading in light of the circumstances then existing. In cases of dispute, the final determination of whether any statement is false or misleading shall be made only by the Comptroller of the Currency after such investigation and proceedings as he shall deem necessary in the circumstances.

(d) Filings shall be made in quadruplicate and may be printed, lithographed, typewritten or prepared by similar process resulting in clearly legible permanent copies. One copy of all filings made pursuant to this part shall be manually subscribed by the national bank's Chief Executive Officer and Cashier.

§ 16.5 Advertisements.

Any written advertisement or other written communication, or any film, radio or television broadcast, which refers to a present or proposed public offering of securities by an existing national bank may be published, distributed or broadcast only after the filing of a registration statement covering such securities, and provided that it contains no more than the following information: (1) The name and address of the issuer of the security; (2) the title of the security, the dollar amount and number of securities being offered, and the per-unit offering price to the public; and (3) where a copy of the offering circular may be obtained.

§ 16.6 Registration of securities of new national banks.

No new national bank shall sell any of its securities unless such securities shall have been made the subject of a registration statement filed in the Office of the Comptroller of the Currency which has been declared effective by the Comptrol-

ler except that this section shall not apply in respect of a first public offering by a new national bank that will not have a capitalization in excess of $1,000,000 as a result of the offering.

§ 16.7 Content of registration statement.

The registration statement and offering circular (which may be identical to the registration statement) filed pursuant to this part shall contain at a minimum the following information:

(a) *Issuer.* On the outside front cover page of the registration statement and offering circular: (1) The proposed name and the address of the issuing national bank; (2) that the issuance of these securities are subject to the approval of and the regulations of the Comptroller of the Currency of the United States; (3) that the designated officers and directors are subject to change upon order of the Comptroller of the Currency and (4) the date of filing the registration statement or amendment.

(b) *Distribution.* On the same page referred to in the preceding paragraph state: (1) The number of and dollar amount of securities being offered; (2) the per security and aggregate offering price and the per security and aggregate proceeds to be received by the national bank; (3) the proposed means of distribution; and (4) the expenses to be incurred in connection with the offering.

(c) *Use of proceeds.* A brief statement of the intended uses of the proceeds of the offering.

(d) *Business of the bank.* A brief statement as to the nature of the bank's proposed operations, including a description of its premises and facilities.

(e) *Financial statements.* As of the date it is contemplated business will be commenced, a pro forma statement of capital and surplus and balance sheet.

(f) *Management.* (1) The full names and complete residence addresses of all organizers, present or proposed directors, and principal officers and their principal occupations during the past 10 years. (2) For such of the persons specified in the preceding sentence who will receive in the current fiscal year in excess of $25,000 per year from the national bank, the aggregate amount of remuneration received by all such persons. (3) A brief description of any present or contemplated bonus, retirement, pension, stock option or other similar plan or provisions and the class of persons covered. (4) Any existing or proposed material interest or transaction between the bank and any organizer, director, or officer thereof, other than in the ordinary course of banking business.

(g) *Principal security holders.* To the extent known: (1) The percentage of outstanding securities which will be held as a group, by directors, principal officers and organizers and the percentage of such securities which will be held by the public if all the securities offered are sold; and (2) the name, address and relationship to the national bank of any person who beneficially owns or will own 10 percent or more of the outstanding capital stock of the national bank.

(h) *Description of registered securities.* In the case of equity securities; briefly describe, if applicable, the dividend, voting, liquidation, pre-emptive, and conversion rights, redemptive and sinking fund provisions, and liability to further calls or assessment.

(i) *Legal proceedings.* Any material pending or threatened legal proceedings to which the national bank is a party or of which any of its property is the subject.

§ 16.8 Filing of registration statement and use of offering circular.

(a) No securities of a new national bank subject to this part shall be sold by, for, or on behalf of any new national bank unless at the time of, or prior to such sale, the purchaser of such security has received an offering circular which forms part of a registration statement declared effective by the Comptroller of the Currency.

[Instruction: This section is not intended to prohibit the solicitation of tentative subscriptions without the use of an offering circular provided that no subscriber will be legally bound to pay the subscription price until after such subscriber has been furnished an effective offering circular.]

(b) The offering circular shall be used in accordance with this part until the completion of the distribution of the registered securities. If the distribution is not completed within 12 months from the effective date of the registration statement, an amended registration statement shall be filed and a revised offering circular shall be used in accordance with this part as for an original offering circular. In no event shall an offering circular be used which is false or misleading in light of the circumstances then existing. In cases of dispute, the final determination of whether any statement is false or misleading shall be made only by the Comptroller of the Currency after such investigation and proceedings as he shall deem necessary in the circumstances.

(c) Filings shall be made in quadruplicate and may be printed, lithographed, typewritten or prepared by similar process resulting in clearly legible permanent copies.

§ 16.9 Advertisements.

(a) Any written advertisement or other written communication, or any film, radio or television broadcast, which refers to a present or proposed offering of securities by a new national bank may be published, distributed or broadcast, provided that it contains no more than the following information: (1) The name and address of the issuer of the security; (2) the title of the security, the dollar amount and number of securities being offered, and the per-unit offering price to the public; and (3) where a copy of the offering circular may be obtained.

§ 16.10 Effective date of registration statement.

Registration statements of new and existing national banks shall become effective when so declared by the Comptroller of the Currency in his discretion upon written request therefor.

§ 16.11 Sanctions.

(a) The failure to comply with any requirement of this part may result in the withholding of the approval of the Comptroller of the Currency to issue the securities, the withholding of effectiveness of the registration statement, or the taking of such other action appropriate in the circumstances.

(b) The enforcement of this part shall be the function solely of the Comptroller of the Currency.

(c) No provision of this part is intended to confer any private right of action on any stockholder or other person against a national bank. Questions as to the applicability of this part or any interpretation thereunder shall be resolved by the Comptroller of the Currency.

Dated: August 21, 1964.

[SEAL] JAMES J. SAXON,
Comptroller of the Currency.

[F.R. Doc. 64-8715; Filed, Aug. 26, 1964; 8:49 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-804]

PART 13—PROHIBITED TRADE PRACTICES

Carpet Distributors, Inc., et al.

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties:* 13.1053-80 Textile Fiber Products Identification Act. Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-80 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845-70 Textile Fiber Products Identification Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, Carpet Distributors, Inc., et al., Los Angeles, Calif., Docket C-804, Aug. 5, 1964]

In the Matter of Carpet Distributors, Inc., a Corporation Doing Business as Delta Carpet Mills, and Julius Fuchs, Individually and as a Former Officer of Said Corporation

Consent order requiring Los Angeles carpet distributors to cease violating the Textile Fiber Products Identification Act by failing to label textile fiber products with the required information; furnishing false guarantees that certain of their products were not misbranded or falsely invoiced by stating falsely on invoices

that they had filed a continuing guaranty with the Federal Trade Commission; failing, in disclosing on labels the required fiber content of floor coverings, to set forth that such disclosures did not relate to the exempted backing filling or padding; failing to label samples or swatches with required information; and confusing the information on labels with nonrequired matter.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondents Carpet Distributors, Inc., a corporation, doing business as Delta Carpet Mills and its officers, and Julius Fuchs, individually and as a former officer of said corporation, and respondents representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product, which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Failing to affix labels to such textile fiber products showing each element of information required to be disclosed by section 4(b) of the Textile Act.

2. Failing to set forth that the required disclosure as to the fiber content of floor coverings relates only to the face, pile, or outer surface of such products and not to exempted backings, fillings, or paddings when such is the case.

3. Setting forth on labels non-required information which interferes with, minimizes, detracts from, or conflicts with information required by section 4(b) of the Textile Fiber Products Identification Act.

4. Failing to affix labels showing the respective fiber content and other required information to samples, swatches and specimens of textile fiber products subject to the aforesaid Act which are used to promote or effect sales of such textile fiber products.

B. Furnishing false guaranties that textile fiber products are not misbranded or otherwise misrepresented under the provisions of the Textile Fiber Products Identification Act.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: August 5, 1964.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 64-8673; Filed, Aug. 26, 1964; 8:46 a.m.]

[Docket No. C-805]

PART 13—PROHIBITED TRADE PRACTICES

Irene Stone et al.

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1590 *Composition:* 13.1590-30 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845-30 Fur Products Labeling Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-35 Fur Products Labeling Act; § 13.1865 *Manufacture or preparation:* 13.1865-40 Fur Products Labeling Act; § 13.1900 *Source or origin:* 13.1900-40 Fur Products Labeling Act: 13.1900-40 (b) Place. Subpart—Using misleading name—Goods: § 13.2280 *Composition:* 13.2280-30 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Irene Stone trading as Irene of New York, et al., New York, N.Y., Docket C-805, Aug. 5, 1964]

In the Matter of Irene Stone, an Individual Trading as Irene of New York, and Rose Potruch, Individually and as an Employee of Irene of New York

Consent order requiring a New York City manufacturing furrier and her office manager to cease violating the Fur Products Labeling Act by such practices as failing, in labeling and invoicing to show the true animal name of fur used in a fur product, to disclose when fur was artificially colored and when fur products contained cheap or waste fur; failing, in invoicing, to show the country of origin of imported furs, invoicing furs improperly as "American Broadtail", and failing to use the terms "Dyed Broadtail-processed Lamb" and "Natural" where required; and failing to comply in other respects with requirements of the Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent Irene Stone, an individual trading as Irene of New York or under any other trade name, and Rose Potruch, an individual and employee of Irene of New York, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce or the sale, advertising or offering for sale in commerce, or the transportation or distribution in commerce of any fur product; or in connection with the manufacture for sale, sale, advertising, offering for sale, transportation or distribution, of any fur product which is made in whole or in part of fur which has been shipped and received in commerce, as the terms "commerce", "fur", and "fur product" are defined in the Fur Products Labeling Act, do forthwith cease and desist from:

A. Misbranding fur products by:

1. Failing to affix labels to fur products showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

2. Failing to disclose on labels that fur products are composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur.

3. Failing to set forth information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder on labels in the sequence required by rule 30 of the aforesaid rules and regulations.

4. Setting forth information required under section 4(2) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in handwriting on labels affixed to fur products.

5. Failing to set forth on labels the item number or mark assigned to a fur product.

B. Falsely or deceptively invoicing fur products by:

1. Failing to furnish invoices to purchasers of fur products showing in words and figures plainly legible all the information required to be disclosed in each of the subsections of section 5(b)(1) of the Fur Products Labeling Act.

2. Setting forth on invoices pertaining to fur products any false or deceptive information with respect to the name or designation of the animal or animals that produced the fur contained in such fur product.

3. Setting forth information required under section 5(b)(1) of the Fur Products Labeling Act and the rules and regulations promulgated thereunder in abbreviated form.

4. Failing to set forth the term "Dyed Broadtail-processed Lamb" in the manner required where an election is made to use that term instead of the words "Dyed Lamb".

5. Failing to set forth the term "Natural" as part of the information required to be disclosed on invoices under the Fur Products Labeling Act and the rules and regulations promulgated thereunder to describe fur products which are not pointed, bleached, dyed, tip-dyed or otherwise artificially colored.

6. Failing to disclose on invoices that fur products are composed in whole or in substantial part of paws, tails, bellies, sides, flanks, gills, ears, throats, heads, scrap pieces or waste fur.

7. Failing to set forth on invoices the required item number or mark assigned to fur products.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: August 5, 1964.

By the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 64-8674; Filed, Aug. 26, 1964; 8:46 a.m.]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 170—FINANCIAL ASSISTANCE FOR CONSTRUCTION OF HIGHER EDUCATION FACILITIES

Chapter I of Title 45 of the Code of Federal Regulations is hereby amended by adding a new part, Part 170. Sections 170.15 and 170.16 as published finally herein reflect comment received in connection with a proposed draft thereof published in the FEDERAL REGISTER on July 10, 1964 (29 F.R. 9457), pursuant to section 4 of the Administrative Procedures Act. Inasmuch as the formulation and submission of State plans for Title I of the Higher Education Facilities Act of 1963 is dependent upon these sections becoming effective and inasmuch as their becoming effective immediately would in no wise adversely affect the States or institutions within the States who may wish to participate under Title I of the Act, it is deemed to be in the public interest that §§ 170.15 and 170.16 together with the other sections published herein be made, and they are hereby made, effective immediately.

The programs governed by this part are subject to such applicable rules, regulations, or orders as may be issued with the approval of the President to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (P.L. 88–352).

Subpart A—General Provisions

Subpart B—Grants for Construction of Academic Facilities

Subpart C—[Reserved]

Subpart D—Loans for Construction of Academic Facilities

AUTHORITY: The provisions of this Part 170 issued under sections 101–111, 301–407; 77 Stat. 364–370, 372–379; 20 U.S.C. 711–721, 741–757.

Subpart A—General Provisions

§ 170.1 Definitions.

As used in this part:

(a) All terms shall have the same meaning as given them in the Act.

(b) "Act" means Public Law 88–204, the Higher Education Facilities Act of 1963. Title references are to titles of the Act.

(c) All references to sections are to sections of this part, unless otherwise indicated.

(d) "Academic facilities" means structures suitable for use as classroom, laboratories, libraries, and related facilities necessary or appropriate for instruction of students or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For purposes of eligibility under any Title of the Act, the term "academic facilities" does not include: (1) Any facility intended primarily for events for which admission is to be charged to the general public; (2) any gymnasium or other facility specially designed for athletic or recreational activities, other than for a course in physical education; (3) any facility used or to be used for sectarian instruction or as a place for religious worship; (4) any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity (a "school or department of divinity," as used in this definition, is an institution, or a department or branch of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects); (5) any facility used or to be used by a "school of medicine," "school of dentistry," "school of osteopathy," "school of pharmacy," "school of optometry," "school of podiatry," "school of nursing," or "school of public health," as defined in section 724 of the Public Health Service Act; (6) any facility used or to be used for infirmary, housing, food service, or similar purposes; and (7) any maintenance, storage, utility or other noninstructional facility not essential to the operation or maintenance of instructional or instruction-related facilities, as defined herein. For purposes of the Act, "academic facilities" are subdivided into three types, defined and further subdivided as follows:

(i) "Instructional and library facilities" means all rooms or groups of rooms used regularly for instruction of students, for faculty offices, or for library purposes. A room intended and equipped for any of the purposes listed below should be counted in the appropriate category, regardless of the building (e.g., administrative building, library building, or field house) in which it is located. Instructional and library facilities are subdivided into the following categories:

(a) "General classrooms" means all instructional rooms used or intended and equipped to be used chiefly for lectures, recitations, and seminar types of class meetings, regardless of the size of the room. The seating area of an auditorium or theatre, if regularly used for scheduled class meetings, should be classified and counted as a general purpose lecture room.

(b) "Instructional laboratories or shops" means all instructional rooms, equipped for special purposes such as chemistry experiments, language practice, food preparation and service in home economics, shopwork in industrial arts, painting, etc. (Adjoining areas such as a balance room, supply room, dark room, or projection room, are considered to be "service areas for teaching facilities" and are not to be counted with instructional laboratories and shops.)

(c) "Other teaching facilities" means all other rooms and areas regularly used or intended for scheduled class meetings or individual instruction, such as: music practice rooms (for individual practice) and music studios (where an instructor's office serves also as a studio, the room should be counted under "faculty offices"); playing floors, wrestling and boxing rooms, indoor swimming pools, and indoor track and field areas used regularly for instructional purposes. Storage rooms for musical instruments, seating areas, locker and shower rooms, and equipment issue and storage rooms used in connection with scheduled classes and located in the gymnasium are considered to be "service areas for teaching facilities" and are not to be counted with other teaching facilities.

(d) "Service areas for teaching facilities" means all service areas which adjoin and are used in conjunction with any general classrooms, instructional laboratories or shops, or other teaching facilities. Examples of service areas for teaching facilities are: closets in general classrooms or in instructional laboratories or shops; rooms adjoining and used in conjunction with instructional laboratories or shops, such as a balance room, a storeroom, supply room, dark room, or projection room; seating areas, locker and shower rooms, and equipment issue and storage rooms located in a gymnasium; instrument storage areas adjoining a music studio; etc.

(e) "Library facilities" means rooms or groups of rooms used for the collection, storage, circulation, and use of books, periodicals, manuscripts and other

reading and reference materials, including the general library, departmental libraries, and rooms for special collections of documents, rooms for storage of films, records, and other audio-visual equipment and materials, library reading and listening rooms, acquisition room, cataloguing room, document reproduction room, circulation and reference desks, and any other similar library service area. Rooms used for any such purposes should be counted under library facilities. Library science laboratories and lecture classrooms located in a library building are to be counted as either general classrooms or instructional laboratories and shops.

(*f*) "Faculty offices" means all rooms or groups of rooms with office-type equipment, which are assigned to one or more faculty members for the performance of administrative, clerical, or faculty duties other than meeting of classes. A studio room in a department of music or fine arts, assigned to one or more faculty members for their own work, even though occasionally used for a student lesson, should be counted as a faculty office. Service areas for faculty offices (e.g., waiting rooms, office files and supply rooms, interconnecting corridors within a suite of offices, private toilets, and clothes closets) should be counted together with the offices themselves.

(ii) "Instruction-related facilities" means all rooms or areas used for purposes related to the instruction of students, or for research, or for administration of the educational or research programs of an institution of higher education. "Instruction-related facilities" includes only rooms and areas which are assignable for research, or administrative purposes, or for functions related to instruction of students, and rooms or areas which directly support such purposes. Instruction-related facilities are subdivided into the following categories:

(*a*) "Research facilities" means rooms or groups of rooms which provide research facilities and are not made available for regular class meetings. A room that serves both as an office and a research laboratory should be counted under research facilities. Service areas which adjoin and are used in conjunction with research facilities should be counted as part of such facilities.

(*b*) "Administrative facilities" means all rooms or groups of rooms with office-type equipment, other than those meeting the definition of "faculty offices," which are used for the performance of administrative or clerical duties related to the administration of the educational or research programs of an institution of higher education. Service areas for administrative facilities (e.g., waiting rooms, office files and supply rooms, interconnecting corridors within a suite of offices, private toilets and clothes closets) should be counted as part of such facilities.

(*c*) "Student study facilities" means all rooms or areas used as student study rooms, including adjoining toilet or locker facilities.

(*d*) "Other instruction-related facilities" means all types of rooms or facilities not included in one of the above categories, which clearly are related to the instructional or research programs of an institution of higher education, and are used for specific functional purposes, such as a control room or studio used for television instruction or programmed instruction, or a central computer facility which is used primarily for instructional purposes, a museum or exhibition room, an auditorium or theatre (other than seating area regularly used for classes and counted under "general classrooms"), a conference room, a greenhouse, or an animal quarters separated from laboratory areas. Service areas for any such facility should be counted together with the facilities themselves.

(iii) "Related supporting facilities" means all other areas and facilities necessary for the utilization, maintenance, and operation of academic facilities, including building service areas and circulation areas.

(e) "Advisory Committee on Graduate Education" means that committee established by section 203 of the Act.

(f) "Assignable area" means square feet of area in facilities designed and available for assignment to specific functional purposes, as distinguished from area in a building used either for janitorial and building maintenance services or for nonassigned use (e.g., public washrooms and general service areas).

(g) "Average annual room-period use" for any type of classroom, instructional laboratory or shop, means the average number of hours such rooms are used per year, obtained by dividing the average of the numbers of such rooms available at the beginning of all terms or semesters during the preceding school year into the total number of class hours scheduled in all such terms. For purposes of this definition, "school year" means the 12-month period between opening fall terms.

(h) "Average weekly room-period use" for any type of classroom, instructional laboratory or shop, means the average number of hours such rooms are used per week, obtained by dividing the total number of such rooms into the total number of class hours scheduled per week in such rooms.

(i) "Branch campus" means a campus of an institution of higher education which is located in a community different from that in which its parent institution is located. A campus shall not be considered to be located in a community different from that of its parent institution unless it is located beyond a reasonable commuting distance from the main campus of the parent institution.

(j) "Capacity/enrollment ratio" means the ratio of square feet of assignable area of instructional and library facilities to the total student clock-hour enrollment divided by 100.

(k) "Commissioner" means the United States Commissioner of Education or his designee.

(l) The term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other equipment items necessary for the functioning of the particular type of academic facility to be provided by an eligible project.

(1) An equipment item is a movable or fixed unit of furniture or furnishings, an instrument, a machine, an apparatus, or a set of articles which meets all the following conditions: (i) It retains its original shape and appearance with use; (ii) it is nonexpendable; that is, if the article is damaged or some of its parts are lost or worn out, it is usually more feasible to repair it than to replace it with an entirely new unit; and (iii) it does not lose its identity through incorporation into a different or more complex unit or substance.

(2) For any item (with the exception of library books, which are excluded from the definition of equipment under the Act) listed in pp. 101–121 (alphabetical List of Supplies and Equipment) of U.S. Department of Health, Education, and Welfare, Office of Education, Bulletin 1959, No. 22, the determination between equipment or expendable supply item as contained therein shall apply. For any item not listed therein and not otherwise defined in this regulation, determination as to eligibility as an item of equipment shall be made by applying the criteria of section 170.1(1) (l).

(3) The term "built-in equipment" includes: equipment items that are permanently fastened to the building and function as part of the building and have a useful life approximately equal to that of the building and the removal of which causes appreciable damage to the building; and equipment items that are permanently attached to the grounds and function as part of the grounds, such as underground storage tanks.

(4) "Initial equipment" means equipment acquired and installed in connection with: erection of new or expansion of existing structures; acquisition and preparation of existing structures; or rehabilitation alteration, conversion, or improvement of existing structures.

(i) In connection with erection of new or expansion of existing structures, or with acquisition of existing structures, initial equipment shall include only that equipment which must be placed in the proposed facility in order for it to accommodate the functions for which the facility has been programmed and designed.

(ii) In the case of the rehabilitation, alteration, conversion or improvement of existing structures, initial equipment also may include equipment installed to replace obsolete or wornout equipment.

(m) "Full-time equivalent number of students" means:

(1) For purposes of determining State allotments for fiscal year 1964 or 1965, the number of full-time students plus one-third of the number of part-time students in each State as determined by Opening Fall Enrollment In Higher Education, 1963 (publication OE–540003–63).

(2) For purposes of determining State allotments for fiscal years after fiscal year 1965, the total number of full-time students plus the full-time equivalent number of part-time students of all institutions in the State, with full-time equivalent number of part-time students determined for each institution by di-

viding total number of credit hours of part-time students by the normal load for a full-time student in the institutions, as reported to the Office of Education for the fall term preceding the fiscal year.

(3) For purposes of reporting enrollment trends and projections in connection with applications for financial assistance for individual institutions, the "full-time equivalent number of students" may be defined for each State by the State commission. In the absence of such a definition by the State commission, "full-time equivalent number of students" shall be the total number of full-time students plus the full-time equivalent number of part-time students determined as specified in section 170.1 (m)(2).

(n) "Institution of higher education," or "institution" means an educational institution in any State which meets the requirements set forth in section 401(f) of the Act. The term "educational institution" limits the scope of this definition to establishments at which teaching is conducted.

(o) "Interior space area" of a building means the total area measured between the principal wall faces at or near floor level, plus wall case or alcove spaces, or both, opening into and designed to serve the activity carried on in the area.

(p) "Portion of a structure especially designed for instruction or research in the natural or physical sciences, mathematics, modern foreign languages, or engineering, or for use as a library," means a separate room or group of rooms within a multipurpose structure, which is designed specifically and programmed principally for use for any of such purposes. Such a facility normally will include areas having special architectural features or equipment which are specifically and demonstrably, although not necessarily uniquely, required for the special purpose for which the rooms will be used. Facilities will be considered to be "programmed" principally for such special purposes if the applicant has firm plans, including tentative schedules of utilization, to use the facilities principally for the specified purposes.

(q) "Project" means that portion of a single construction activity, which is eligible for a grant or a loan under the Act. Only construction to be undertaken at one time and at a single location may be considered to be a "single construction activity."

(r) "State commission" means the State agency designated or established in each State pursuant to section 105(a) of the Act.

(s) "State plan" means the document submitted by a State commission and approved by the Commissioner, which sets forth the standards, methods, and administrative procedures whereby the State commission shall review projects proposed by applicants in the State for Federal assistance under Title I of the Act, and shall determine and recommend the relative priority of each such project and the Federal share of the costs eligible for Federal financial participation.

(t) "Structure especially designed for instruction or research in the natural or physical sciences, mathematics, modern foreign languages, or engineering, or for use as a library" means a structure which in its entirety is designed and is programmed principally for use for any or a combination of such purposes. Such a facility normally will include areas having special architectural features or equipment which are specifically and demonstrably, although not necessarily uniquely, required for the special purposes for which the structure will be used. Facilities will be considered to be "programmed" principally for such special purposes if the applicant has firm plans, including tentative schedules of utilization, to use the facilities principally for the specified purposes.

(u) "Technical institute" means an institution or branch campus which is organized and administered principally to provide one or more two-year programs in engineering, mathematics, or the physical or biological sciences which are designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge.

(v) "Student clock-hour enrollment" means the aggregate clock hours (sometimes called contact hours) in classes or supervised laboratory or shop work for which all resident students are enrolled as of a particular date.

(w) "Student credit-hour enrollment" means the aggregate credit hours for which all resident students are enrolled as of a particular date.

(x) "Student enrollment" means the full-time equivalent number of resident students enrolled as of a particular date.

§ 170.2 General terms and conditions.

No application will be approved for Federal assistance under the Act unless it contains assurances that:

(a) No part of the facility or facilities included in the proposed project (1) is intended primarily for events for which admission is to be charged to the general public; (2) is especially designed or intended for athletic or recreational activities other than for an academic course in physical education; (3) will be used for sectarian instruction or as a place for religious worship or primarily in connection with any part of the program of a school or department of divinity; or (4) will be used by a "school of medicine," "school of dentistry," "school of osteopathy," "school of pharmacy," "school of optometry," "school of podiatry," "school of nursing," or "school of public health," as defined in section 724 of the Public Health Service Act.

(b) All facilities included in the proposed project will be used as academic facilities during at least the period of the Federal interest therein.

(c) Any Federal funds received pursuant to the application will be used solely for defraying the development cost of the proposed project.

(d) The applicant has on hand, or is assured of obtaining if the application is approved, sufficient funds to meet the non-Federal portion of the costs of constructing the facilities described in the application.

(e) If the application is approved, the construction covered by the application will be undertaken promptly, and in an economical manner and will not be of elaborate or extravagant design or materials.

(f) Construction contracts for the construction covered by the application will:

(1) Provide that laborers and mechanics employed by contractors and subcontractors in the performance of work on construction of the facility will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (Public Law 403, 74th Congress), and receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours Standards Act (Public Law 87-581), unless a waiver is granted by the Commissioner pursuant to section 403(a) of the Act.

(2) Provide that the contractor shall furnish performance and payment bonds, each of which shall be in the full amount of the contract price, and shall maintain, during the life of the contract, adequate fire, workmen's compensation, public liability and property damage insurance (unless applicant makes other arrangements for any or all such insurance).

(3) Provide that representatives of the United States Office of Education and such other persons as the Commissioner may designate will have access at all reasonable times to work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

(g) Approval of the final working drawings and specifications will be obtained from the Commissioner before the construction covered by the application is advertised or placed on the market for bidding (except in the case of a project already under construction, for which an application is submitted prior to April 1, 1965).

(h) No changes in construction plans which would alter the scope of work, function, assignable instructional or library areas, utilities or safety of the facility will be made without prior approval of the Commissioner.

(i) Actual construction work will be performed by the fixed price contract method; competitive bidding will be invited prior to awarding the construction contract, either by public advertising or by obtaining three or more bids; the contract will be awarded to the responsible bidder submitting the lowest acceptable bid; and the concurrence of the Commissioner will be obtained before awarding a construction contract.

(j) Equipment not included in the basic construction contract will be procured by competitive bidding either by public advertising or by obtaining three or more bids, unless other procurement methods are required by State or local law.

(k) The applicant will cover all costs in excess of the amount provided for in the application.

(l) Adequate and separate accounting and fiscal records and accounts of all funds provided from any source to pay the cost of the proposed construction will be maintained, and audit of such records and accounts will be permitted at any reasonable time.

(m) The applicant will furnish progress reports and such other information relating to the proposed construction and the grant or loan as the Commissioner may require.

(n) Architectural or engineering supervision and inspection will be provided at the construction site to insure that the completed work conforms with the approved plans and specifications, and "as-built" drawings will be made available to the Commissioner upon completion of the project.

(o) The applicant has reviewed the academic and financial requirements for operation of the facilities upon their completion and considers the plan for operation of the facilities to be practical and within the capabilities of the institution.

§ 170.3 Determination of costs eligible for Federal participation.

Determination of costs eligible for Federal participation will be based for each individual project, whether application is made under Title I, II, or III of the Act, upon: (a) The date on which a given cost item was incurred (obligated or contracted for, whichever is earlier); (b) whether the cost is for an allowable item of expense in accordance with the definition of "development cost" contained in section 401(c) of the Act; (c) the portion of the total development cost of a proposed facility which is clearly assignable to academic facilities eligible under the type of assistance for which application is submitted; and (d) the amount of any financial assistance under any other Federal program which the applicant has obtained or is assured of obtaining for the project.

(1) Any cost incurred before, or under a contract entered into before, December 16, 1963, shall be excluded from the eligible development cost.

(2) In addition, for applications received on or after April 1, 1965, either by the Commissioner under Title II or Title III of the Act, or by a State commission under Title I, the following shall be excluded from the eligible development cost:

(i) Any cost incurred under a construction contract entered into prior to the date of concurrence by the Commissioner in the award of such contract.

(ii) Any land acquisition costs, or costs for architectural/engineering or legal services, incurred more than two years prior to the date of the application.

(iii) Any other project costs, including the costs of acquisition of existing structures, incurred prior to the date of acceptance by the applicant of the Commissioner's grant or loan offer for the approved project.

(3) If the project for which a grant or loan is requested is a part of a larger facility, the portion of the development cost eligible for Federal participation shall be determined in a manner acceptable to the Commissioner, taking into account the relative proportion of total assignable area in the larger facility which is eligible for the type of Federal financial assistance requested.

§ 170.4 Determination that construction will be undertaken in an economical manner and will not be of elaborate or extravagant design or materials.

In determining whether the project complies with the requirements of sections 108(b)(5) and 303(a)(3) of the Act, consideration will be given to:

(a) Economy of maintenance and operation after construction is completed.

(b) Unit costs for similar construction in the same area.

(c) Efficiency of design, with due regard to safety standards, in placement of common-use areas such as hallways and lobbies, and in placement of plumbing and other utility systems.

(d) Ratio of assignable area to interior space area of the building.

(e) Relationship between the number of floors in the construction and the costs of land in the immediate vicinity.

(f) Generally accepted standards for the particular types of academic facilities to be provided by the proposed project.

(g) Reasonable allowance, where appropriate and justified, for harmonious integration of a new facility with architectural characteristics of surrounding buildings, for creative application of proved new developments in educational media and methods, for planned future expansion of the facility, or for civil defense shelter provisions.

Subpart B—Grants for Construction of Academic Facilities

§ 170.11 Project eligibility.

To qualify for a grant from funds allotted pursuant to Title I of the Act, the project covered by a grant application shall meet applicable conditions as set forth in section 106 of the Act.

(a) As used in section 106 of the Act, "to be undertaken within a reasonable time" shall mean under construction as of the date of the application or approved for construction to start within two years of the date of application.

(b) The addition of 10,000 square feet of assignable area in instructional or library facilities, or the addition of assignable area equal to 50 percent of the existing assignable area in instructional and library facilities, shall qualify as a "substantial expansion of enrollment capacity."

(c) In determining whether a substantial expansion of enrollment capacity is urgently needed, consideration shall be given to the capacity/enrollment ratio at the campus to be expanded, the planned for and reasonably expected increase in undergraduate enrollment (full-time equivalent) at the campus, and to any available data on the needs for expansion of enrollment capacity in the particular State.

(d) In determining whether the creation of enrollment capacity in a new institution or branch campus is urgently needed, consideration shall be given to the planned for and reasonably expected undergraduate enrollment (full-time equivalent) at the institution or branch campus, upon completion of the proposed project, and to any available data on the needs for expansion of enrollment capacity in the particular State.

§ 170.12 Institutional eligibility for grants under section 103.

To qualify for a grant from funds allotted pursuant to section 103 of the Act, an institution or a branch campus of an institution shall meet requirements specified in sections 401(f) and 401(g) of the Act.

(a) Accreditation requirements pursuant to section 401(f) of the Act may be satisfied by one of the methods specified in § 170.13.

(b) An institution or a branch campus of an institution shall be determined to be organized and administered principally to provide a two-year program as specified in section 401(g) of the Act, if:

(1) More than 50 percent of the full-time equivalent student enrollment at the institution or branch campus is in two-year programs which are verified to meet the requirements of the Act by either (i) the fact that the institution or branch campus meets one of the accreditation requirements specified in paragraphs (a), (b), or (c), § 170.13, or (ii) certification from the Commissioner that the programs meet the requirements of the Act, to be obtained by the institution before submitting an application pursuant to section 103 of the Act; and

(2) The application for a grant pursuant to section 103 of the Act contains a statement that the institution or branch campus is organized and administered principally to provide such programs and such statement is supported by information available to or obtained by the State commission.

§ 170.13 Institutional eligibility for grants under section 104.

To qualify for a grant from funds allotted pursuant to section 104 of the Act an institution or a branch campus of an institution shall meet requirements specified in section 401(f) of the Act. Accreditation requirements pursuant to section 401(f) of the Act may be satisfied by one of the following methods, to be established by the institution before submitting an application pursuant to Title I of the Act:

(a) Accreditation of the institution or the branch campus by a nationally recognized accrediting agency or association listed pursuant to section 401(f) of the Act.

(b) Coverage of the branch campus in accreditation of the parent institution by such a nationally recognized accrediting agency or association.

(c) In the case of a technical institute, accreditation (by such a nationally recognized accrediting agency or association) of individual programs of the institute which are two-year programs in engineering, mathematics, or the physical or biological sciences, and in which are enrolled more than 50 percent of the full-time equivalent student enrollment of such institute.

(d) Certification by the Commissioner (dated no earlier than 2 years prior to the date of application); that the credits of the institution have been and are ac-

cepted on transfer, by not less than three institutions that are accredited by such a nationally recognized accrediting agency or association, on the same basis as if transferred from an institution so accredited; or that he has determined that there is satisfactory assurance that the institution or branch campus will meet the requirements of section 401(f)(5) of the Act upon completion of the proposed project and others under construction or planned and to be commenced within a reasonable time.

§ 170.14 Special terms and conditions.

Before approving a Title I grant the Commissioner will require:

(a) Satisfactory evidence that the applicant has or will have a fee simple or such other estate or interest in the facilities and site, including access thereto, sufficient in the opinion of the Commissioner to assure undisturbed use and possession for the purpose of the construction and operation of the facilities for not less than seventy-five years from the date of the application.

(b) Satisfactory evidence that the applicant has the necessary legal authority to finance, construct, and maintain the proposed facilities, and to apply for and receive the proposed grant.

§ 170.15 Criteria for standards and methods to determine relative priorities of eligible projects.

(a) The State plan shall set forth separately the standards and methods for determining the relative priorities of eligible projects for the construction of academic facilities (1) for public community colleges and public technical institutes and (2) for institutions of higher education other than public community colleges and public technical institutes. The standards and methods set forth for each of the two categories of eligible projects shall provide separately for new institutions or new branch campuses and for established institutions or campuses. Unless otherwise defined in the State plan, a new institution or branch campus (as distinguished from an established institution or branch campus) shall be one which was not in operation and admitting students as of the fourth fall term preceding the date of application for assistance under Title I.

(b) The standards for determining relative priorities for established institutions or branch campuses shall give special consideration to:

(1) The planned for and reasonably expected numerical and/or percentage increase in undergraduate student enrollment at the campus at which the facilities are to be constructed by the third or fourth fall term (the State plan shall specify which) after the fall term preceding the date of application.

(2) The amount and/or percentage by which the construction of the project for which a Title I grant is requested will increase the square feet of assignable area in instructional and library facilities at the campus at which the facilities are to be constructed.

(3) The degree of utilization of existing academic facilities at the campus at which the facilities are to be constructed, as evidenced by such indicators as the capacity/enrollment ratio, the average weekly room-period use for general classrooms, and for instructional laboratories and shops, the average annual room period use for such facilities, the number of weeks in which classes were scheduled in the academic year preceding the date of application, or by similar objective indicators designed to test the degree of utilization of existing academic facilities at such campuses.

(c) The standards for determining relative priorities for new institutions or new branch campuses shall give special consideration to:

(1) The planned for and reasonably expected numerical increase in undergraduate student enrollment at the campus at whch the facilities are to be constructed by either the third or fourth fall term (the State plan shall specify which) after the fall term preceding the date of application, or the planned for and reasonably expected undergraduate enrollment at such campus for either the third or fourth fall term after such term.

(2) The number of square feet of assignable area in instructional and library facilities to be provided by the construction of the project for which a Title I grant is requested.

(d) The State plan may include additional standards for determining relative priorities which are not inconsistent with the criteria set forth in paragraphs (b) and (c) of this section and which will carry out the purposes of the Act, such as:

(1) The geographic location of the proposed construction project.

(2) The type of institution or academic program to be expanded in conjunction with the academic facility or facilities to be constructed.

(3) The type of academic facility or facilities to be constructed.

(4) The date of the most recent previous grant awarded under Title I for construction at the same campus of an institution.

(5) The projected utilization of academic facilities at the campus at which the facilities are to be constructed.

(6) The relationship of the proposed facilities to an adopted plan for development of the institution or branch campus for which it will be constructed.

(7) The degree to which facilities of the type to be provided by the project are presently being utilized at the campus at which the project will be constructed.

(e) The methods for application of the standards for determining relative priorities shall provide for the assignment of point scores for each standard applied, such that the potential score for each project will be the same whether the project is for a new institution or new branch campus or for an established institution or established branch campus. The standard or group of standards which implements each of the criteria listed in paragraph (b) of this section shall each be assigned not less than 15 percent of the possible point score, and the standard or group of standards implementing each of the criteria listed in paragraph (c) of this section shall be assigned not less than 25 percent and 20 percent, respectively, of the possible point score. The assignment of points for each standard may be by any one of the following methods, a different one of which may be used in connection with each standard:

(1) Applications may be ranked according to relative performance for the standard, and assigned a point score for relative rank (e.g., 10 points for placement in the highest 10 percent, 9 points for placement in the second highest 10 percent, 8 points for placement in the third highest 10 percent, etc.).

(2) Applications may be compared to a scoring table for the standard, and assigned points accordingly (e.g., for average weekly room-period use of general classrooms, a scoring table might provide for 10 points for an average use of 30 hours or more, 8 points for an average use of 24 hours or more, 6 points for an average use of 18 hours or more, etc.).

(3) Applications may be compared to a fixed requirement for the standard, and assigned points if they meet the requirement or denied points if they do not. This type of scoring should be used where comparison against the standard involves a "yes—no" decision (e.g., Is the proposed project located in a geographic area of the State in which an unfilled need for creation or expansion of undergraduate enrollment capacity has been documented in a statewide study? If "yes," award 5 points, if "no," award 0 points).

(f) The methods for application of the standards shall provide for determination of relative priorities on the basis of the total of the points earned by each application for each applicable standard and shall specify factors to be applied in determining which application shall receive the higher priority in the case of identical scores.

(g) The standards and methods for determining relative priorities must be developed on the basis of information which is to be submitted on the application form prescribed by the Commissioner, required by the State commission to be submitted in connection with the filing of an application, or contained in reports or publications readily available to the State commmission and the institutions within the State. In no event shall an institution's readiness to admit out-of-State students be considered as a priority factor adverse to such institution and in no event may the nature of the control or sponsorship of the institution, or the fact that construction of the project has commenced, or that part of the cost of a project has been incurred before or under a contract entered into prior to the date of application, or that financial assistance for construction of the facilities has been requested or awarded under this program or other Federal programs, be considered as a priority factor either in favor of, or adverse to, an institution.

§ 170.16 Criteria for standards and methods to determine Federal shares of eligible projects.

(a) With respect to construction projects for public community colleges and

public technical institutes, the Federal share of the costs eligible for Federal financial participation shall be 40 percent of such cost.

(b) With respect to construction projects for institutions of higher education other than public community colleges and public technical institutes, unless the Federal share is specified in the State plan as a uniform percentage of the costs eligible for Federal financial participation, the State plan shall prescribe the standards and methods in accordance with which the State commission shall determine the Federal share of such costs, but in no event may the Federal share exceed 33⅓ percent of such costs.

(c) Standards and methods for determining the Federal share pursuant to paragraph (b) of this section: (1) Must be objective and simple to apply; (2) may involve the use only of data which are to be submitted on the application form prescribed by the Commissioner, required by the State commission to be submitted in connection with the filing of an application, or contained in reports or publications readily available to the State commission and the institutions of higher education within the State; (3) must be such as will enable an applicant to calculate in advance (on the assumption that sufficient funds will be available to cover all applications) the estimated Federal share which the State commission will certify to the Commissioner if it recommends the project for a Federal grant; and (4) must be consistent with the criteria published by the Commissioner with respect to the determination of relative priorities among projects and be promotive of the purposes of the Act.

§ 170.17 Procedures where funds are insufficient to provide full Federal shares for all eligible projects.

(a) In any case where the funds available in a State allotment for projects considered as of a particular closing date are insufficient to cover all eligible applications, the State commission shall nevertheless determine the full Federal share, calculated according to the Act for grants under section 103 or according to the State plan for grants under section 104 of the Act, for all projects in their order of relative priority, until the remaining available funds are insufficient to provide the full Federal share as calculated for the next project in order of priority. In the absence of alternative provisions included in the State plan pursuant to paragraph (b) of this section, all projects for which the full Federal share, as calculated, cannot be provided for by the available funds shall be carried over to subsequent closing dates in accordance with paragraph (c) of § 170.18.

(b) A State plan may include, as an alternative to the procedure set forth in paragraph (a) of this section, either one or a combination of the following:

(1) If the State allotment is apportioned among closing dates, sufficient funds will be made available immediately, from such funds as were apportioned to later closing dates in the same fiscal year, so that the full Federal share as initially calculated will be available for the first project for which only a part of the Federal share would otherwise have been available.

(2) If the procedure described in subparagraph (1) of this paragraph is not provided for, or for any case where there are no funds reserved for later closing dates in the same fiscal year (whether or not the State allotment is apportioned among closing dates), the amount of the remaining funds may be offered as a partial Federal share for the first project in order of relative priority for which less than the full Federal share as calculated is available. The offer and acceptance of such a lesser Federal share shall in no way be deemed to diminish the scope of the project. An applicant which agrees to accept such a partial Federal share shall in all cases have the option to submit a supplemental application for the balance of the full Federal share as initially calculated, to be considered and assigned a relative priority along with all other applications considered as of subsequent closing dates. If the applicant offered such a partial Federal share declines to accept it, the remaining funds shall be carried over to the next closing date, if any, in the same fiscal year, and the application for which the partial Federal share was declined shall be carried over to subsequent closing dates in accordance with paragraph (c) of § 170.18.

§ 170.18 Closing dates for consideration of applications.

The State plan shall specify not less than two nor more than three annual closing dates for the receipt of applications for Federal assistance. Such closing dates shall be between July 31 and March 31 of the Federal fiscal year, and shall be at least two months apart. Closing dates for applications from public community colleges and public technical institutes may be different from the closing dates for other institutions of higher education. Closing dates after the first closing date each fiscal year shall be effective only if funds are available in the applicable State allotment as of each such later closing date.

(a) All applications received by each specified closing date shall be considered together and, if they appear to meet basic eligibility requirements, shall be assigned relative priorities and recommended Federal shares in accordance with the provisions of the State plan.

(b) The State plan may provide for apportionment of the State allotments under section 103 and section 104 of the Act, so that specified portions of either or both allotments become available for grants as of specified closing dates, but such apportionment shall not be required, and in the absence of such a provision in the State plan, the total of each allotment shall be available for grants as of the first applicable closing date each fiscal year.

(c) Applications not assigned sufficiently high priorities to qualify for Federal grants within the amount of funds available in the appropriate allotment as of any closing date shall be retained by the State commission and reconsidered (on the same basis as a new application), together with additional applications received as of the subsequent closing dates. Applications which are not recommended for a grant within 18 months of their date of receipt by the State commission shall be returned to applicants. Any applicant may at any time withdraw his application or resubmit any return application, incorporating new information developed since the earlier submission of the application. If an application is resubmitted it shall be treated as a new application, for consideration as of the next specified closing date.

§ 170.19 State plan.

The Commissioner shall approve a State plan only after he has received satisfactory assurance and explanation regarding the basis on which the State commission submitting the plan meets the requirements of section 105(a) of the Act. A State plan submitted in accordance with section 105 of the Act shall be submitted on forms or in a format supplied by the Commissioner and shall contain all provisions required by section 105 of the Act and by other sections of these regulations together with such additional organizational and administrative information as the Commissioner may request, and provisions that:

(a) The State commission will accept all applications for Title I grants for institutions of higher education in the State, provided such applications are submitted on forms provided by the Commissioner, and will officially record the date of receipt of each application by the State commission; and any application which is incomplete will, after its date of receipt is recorded, be returned promptly to the applicant with an explanation of deficiencies to be corrected before the application can be further processed by the State commission.

(b) Before determining the relative priority or Federal share for any application for grant assistance under Title I of the Act, the State commission will verify that the institution or branch campus and the construction project proposed in the application appear to meet basic eligibility requirements set forth in the Act and the regulations governing administration of the Act; and that in any case where the State commission questions the eligibility of an institution or branch campus or of a project, for the type of grant requested, the application will be forwarded promptly to the Commissioner for a clarification of such eligibility.

(c) The State commission: will establish a complete case file on each application received; will inform applicants of official actions and determinations regarding applications, by letter or similar type of correspondence; and will retain records regarding each case for at least two fiscal years beyond the fiscal year in which final action with respect to the application is taken by the State commission.

(d) The State commission will maintain a full record of all proceedings by which it establishes relative priorities

and recommended Federal shares for eligible projects considered according to each specified closing date.

(e) Promptly upon completing its consideration of applications as of each closing date, the State commission will forward to the Commissioner: (1) A current project report, on forms supplied by the Commissioner, for the pertinent category of applications (i.e., section 103 applications, section 104 applications), listing each application received since the previous closing date, each application returned to the applicant and the reason for return of such application, each application considered as of the latest closing date, and the priority and Federal share determined by the State commission for each project assigned a priority high enough to qualify for a Federal grant within the amount of funds available in the allotment for the State; and (2) the application form in the number of copies requested by the Commissioner, for each project assigned such a qualifying priority.

(f) The State commission will promptly notify all applicants of the results of all State commission determinations as of each closing date, and the records of official State commission proceedings shall be a matter of public record within the State.

§ 170.20 Submission and processing of applications.

(a) *Submission of application.* Applications for grants under Title I of the Act shall be submitted, on forms supplied by the Commissioner, directly to the appropriate State commission, in the number of copies specified by the State commission. Applications may be submitted at any time after the State plan is approved. State commissions may require applicants to submit such additional information as they deem necessary for determination of relative priorities and Federal shares, and may establish such procedures for verification of data contained in applications as they may deem necessary and appropriate.

(b) *Recommendation by State commissions.* The State commission shall forward to the Commissioner approved applications for which funds for the Federal share are available in the allotments to the State as of the particular State commission closing date. Approval and recommendation by the State commission does not constitute a Federal commitment on the project, but is a prerequisite for approval and reservation of funds by the Commissioner.

(c) *Offer and acceptance of grant.* For project applications which meet all requirements of section 108(b) of the Act and of the Federal regulations, the Commissioner will approve the application and reserve Federal funds from the appropriate State allotment and will prepare and send to the applicant a grant award, which sets forth the pertinent terms and conditions, and which is contingent upon acceptance by the applicant within a specified period of time. The accepted grant award will constitute a formal grant agreement between the Commissioner and the applicant, for construction of the proposed project, and for Federal grant participation in the eligible development cost of the project.

§ 170.21 Amendment of project applications.

(a) Any time before an application has been forwarded to the Commissioner by the State commission, the applicant may make changes in the application by written notification to the State commission, provided, however, that no change made between a closing date and the determination of relative priorities for projects considered as of such closing date may result in improvement of the relative priority determined for the affected project.

(b) Any time after an application has been forwarded to the Commissioner by the State commission, with recommendation for a Federal grant, an applicant desiring to make changes in the project which will affect the nature or scope of the project shall inform the State commission in writing of such proposed changes. If the State commission determines that such changes will not affect its original recommendation of the project for a grant it shall forward a copy of the applicant's notification to the Commissioner, with a statement that the State commission approves such changes. If the State commission determines that the proposed changes will affect its original recommendation of the project for a grant, it shall so inform the applicant and the Commissioner and appropriate adjustments or arrangements shall be made.

(c) Any time after an application has been forwarded to the Commissioner by the State commission, with recommendation for a Federal grant, an applicant desiring to apply for an increase in the amount of the Federal share on the basis of increased development cost shall submit a supplemental application on forms supplied by the Commissioner, together with any additional information which may be required by the State commission. Such supplemental application shall be considered together with all other applications eligible for consideration as of the next applicable closing date, and shall be assigned a relative priority and adjusted Federal share and otherwise processed as an original application in accordance with the State plan.

§ 170.22 Adjustments in amount of Federal share.

The amount of the Federal share for a project under Title I of the Act shall be based upon the actual cost of the project, as determined in the final settlement under the grant agreement between the Commissioner and the applicant.

(a) The Federal share determined by the State commission will be expressed both as a dollar amount and as a percentage of the estimated eligible development cost of the project under section 103 or 104 of the Act.

(b) In case of an amendment to an application the revised dollar amount and percentage for the estimated Federal share shall be specified in the application amendment.

(c) At the time of final settlement under the great agreement, the Federal share shall be adjusted finally, to conform to the actual total of the eligible development cost for the project.

(d) Adjustments in the Federal share shall be made at settlement according to the following criteria:

(1) If the actual eligible development cost is greater than estimated in the approved application and provided for in the grant agreement, settlement shall be based on the dollar amount of the Federal share provided for in the agreement.

(2) If the actual eligible development cost is less than estimated in the approved application and provided for in the grant agreement, settlement shall be based on the percentage specified in the agreement.

§ 170.23 Payment of grant funds on approved projects.

Payment of grant funds on approved projects shall be made by the Commissioner as requested by the applicant, according to schedules established by the Commissioner and based upon the completion of stages of construction and the current estimated eligible development cost. Payment of the final installment of such grant funds shall be withheld until final settlement on the completed project.

Subpart C—[Reserved]

Subpart D—Loans for Construction of Academic Facilities

§ 170.51 Eligibility for loans.

Loans may be made only for construction of academic facilities for institutions of higher education or for cooperative graduate centers.

§ 170.52 Submission of applications.

Each institution, cooperative graduate center board or higher education building agency desiring a loan for the construction of academic facilities shall submit an application for such assistance, in the manner and containing the information specified by the Commissioner.

§ 170.53 Special terms and conditions.

Before approving a loan the Commissioner will require:

(a) Satisfactory evidence that the applicant has or will have a fee simple or such other estate or interest in the facilities and site, including access thereto, sufficient in the opinion of the Commissioner to assure undisturbed use and possession for the purpose of the construction and operation of the facilities for not less than seventy-five years from the date of application.

(b) Satisfactory evidence of the ability of the applicant to comply with the appropriate terms and conditions for repayment of the loan.

(c) Satisfactory evidence that the applicant has the necessary legal authority to finance, construct, and maintain the proposed facilities, to apply for and receive the proposed loan, and to pledge any assets or revenues to be given as security for the proposed loan.

(d) Satisfactory assurances that the project for which the loan is requested is related to a plan for development of the institution, branch campus or cooperative graduate center for which it will be constructed, and is associated with ei-

ther a planned increase in student enrollment or a planned improvement in the instructional programs offered by the institution, branch campus or cooperative graduate center.

(e) Satisfactory assurance that the applicant will not mortgage to others the facility to be constructed with the assistance of the loan during the life of the loan.

(f) Satisfactory assurance that all applicable provisions for equal opportunity in employment, pursuant to Executive Order 10925, as amended by Executive Order 11114, will be included in all construction contracts for the construction covered by the application.

§ 170.54 Determination of non-availability of equally as favorable terms and conditions.

No loan will be made unless the Commissioner finds that the applicant is unable to secure the amount of such loan from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this part. For the purpose of making such determination, the applicant shall be required to comply with such procedures as the Commissioner may establish, including, where deemed necessary, public advertising for bids from other sources.

§ 170.55 Forms of evidence of indebtedness.

The evidences of indebtedness shall be in such form as may be prescribed by the Commissioner.

§ 170.56 Security for loans.

All loans shall be secured in a manner which the Commissioner finds sufficient to reasonably assure repayment. The security may be one or a combination of the following:

(a) Negotiable stocks or bonds of a quality and value acceptable to the Commissioner.

(b) A pledge of unrestricted and unencumbered income from an endowment or other trust funds acceptable to the Commissioner.

(c) A pledge of a specified portion of annual general or special revenues of the institution, acceptable to the Commissioner.

(d) Full faith and credit (tax supported) obligations of a State or local public body.

(e) Such other types of security as the Commissioner may find acceptable in specific instances.

§ 170.57 Length and maturity of loans.

(a) The maximum repayment period for loans under Title III of the Act shall be 30 years, except where the Commissioner finds that a longer repayment period is required in order for the loan to be feasible.

(b) Substantially level total annual installments of principal and interest, sufficient to amortize the loan from the third year through the final year of the life of the loan, will be required unless otherwise authorized by the Commissioner.

(c) Loans maturing in less than 30 years, or loans which do not mature serially, may be considered by the Commissioner in order to fit the loan into an applicant's total financial plan.

(d) In no case shall a loan repayment period exceed the estimated useful life of the facilities to be constructed with the assistance of the loan.

§ 170.58 Bond counsel opinion.

At appropriate stages in the loan application and development procedure, a legal memorandum or opinion of bond counsel will be required with respect to the legality of the proposed bond or note issue, the legal authority to offer the issue and secure it by the proposed collateral, and the legality of the issue upon delivery. "Bond Counsel" means either a law firm or individual lawyer, thoroughly experienced in the financing of construction projects by the issuance of bonds, and whose approving opinions are marketable opinions, in that they have previously been accepted by investment bankers, banks, and insurance companies. Where the borrower is a public institution or agency, the proposed bond counsel shall be a recognized bond counsel in the municipal field. A counsel experienced in the issuance of private corporation bonds may serve as bond counsel where the borrower is a private corporation. The legal memorandum or opinion to be provided by such an acceptable bond counsel in each case generally shall be as follows:

(a) A memorandum by bond counsel, submitted with the loan application, stating that there is or will be authority to finance, construct, maintain the project, and to issue the proposed obligations and to pledge or mortgage the assets and/or revenues offered to secure the loan, citing the basis for such authority.

(b) A preliminary approving opinion of bond counsel, submitted at the time the applicant proposes to advertise for construction bids for the project, to the effect that when the bonds or notes described in the loan agreement are sold and delivered they will comply with the applicable provisions of the loan agreement and will be valid and binding obligations of the issuer and will be payable in accordance with their terms.

(c) The final approving opinion of bond counsel, delivered at the same time as the delivery of the bonds or notes, stating that the bonds or notes (1) are those described in the loan agreement and the authorizing proceedings, (2) have been duly authorized, sold and delivered to the Commissioner, and (3) constitute the valid and binding obligations of the issuer payable in accordance with their terms.

§ 170.59 Determination of priorities for loan approvals.

Loan applications shall be processed in such order and according to such standards and methods as the Commissioner may determine. Such standards and methods shall be developed as may be necessary and appropriate to encourage distribution of the available loan funds in accordance with actual needs and may include establishment of closing dates for consideration of applications and for determination of priorities.

§ 170.60 Loan agreement.

For project applications which meet all requirements of the Act and of the regulations governing the administration of the Act, and upon approval by the Commissioner together with a reservation of Federal funds, a loan offer will be prepared by the Commissioner and sent to the applicant. The loan offer will set forth the pertinent terms and conditions for the loan, and will be conditioned upon the fulfillment of these terms and conditions and upon its acceptance by the applicant within a specified period of time. The accepted loan offer will constitute the Loan Agreement between the Commissioner and the applicant for the partial financing of the construction of the approved project.

§ 170.61 Loan closing.

Loan closing shall be accomplished within ninety days from the date of the award of the prime construction contracts, unless otherwise provided by the Commissioner.

§ 170.62 Interim financing.

If necessary, the applicant shall arrange for interim financing, subject to the approval of the Commissioner, to cover the cost of construction pending the loan closing. Where the Commissioner finds that an applicant is unable to secure necessary interim financing on reasonable terms, he may provide for advances against the approved loan.

§ 170.63 Construction fund.

The proceeds of the sale of the bonds or notes, any interim advances against the approved loans, and all other monies to be used in paying for the construction of which the project is a part, shall be deposited into a separate bank account to be maintained in a bank of the applicant's choice and to be known as the Construction Fund. All expenditures for the construction shall be made from this fund. Accounting for this fund shall be in accordance with generally accepted accounting principles. When necessary and appropriate, the Commissioner may approve other arrangements for the deposit of construction funds and the construction fund accounting, provided such arrangements provide adequate accountability for the total construction receipts and expenditures.

§ 170.64 Investment of idle construction funds.

Where the monies on deposit in the construction fund exceed the estimated disbursements for the project for the next 90 days, the borrower shall, if permitted by State or local law, direct the depository bank to invest such excess funds in direct obligations of the United States Government, or obligations the principal of and interest on which are guaranteed by the United States Government, which shall mature not later than eighteen (18) months from the date of such investment.

§ 170.65 Disposal of balance remaining in the construction fund.

The balance of monies remaining in the construction fund at the completion

of construction shall be disposed of in accordance with the provisions of the loan agreement.

Dated: August 19, 1964.

[SEAL] FRANCIS KEPPEL,
U.S. Commissioner of Education.

Approved: August 21, 1964.

ANTHONY J. CELEBREZZE,
Secretary of Health, Education, and Welfare.

[F.R. Doc. 64-8690; Filed, Aug. 26, 1964; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Crab Orchard National Wildlife Refuge, Illinois

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

The public hunting of mourning doves on the Crab Orchard National Wildlife Refuge, Illinois, is permitted from September 1 through November 9, 1964, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 12,380 acres, is delineated on a map available at refuge headquarters, Carterville, Illinois, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Minneapolis, Minn., 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of mourning doves.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and in the current Federal Migratory Bird Regulations. The provisions of this special regulation are effective through November 9, 1964.

A. V. TUNISEN,
Acting Director, Bureau of Sport Fisheries and Wildlife.

[F.R. Doc. 64-8697; Filed, Aug. 26, 1964; 8:48 a.m.]

PART 32—HUNTING

Hart Mountain National Antelope Refuge, Oreg.

Pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715) and the Migratory Bird Hunting Stamp Act of 1934, as amended (48 Stat. 451, 16 U.S.C. 718d), 50 CFR 32.11 and 32.21 are amended by the addition of Hart Mountain National Antelope Refuge, Oregon, to the list of wildlife refuges open to the hunting of migratory game birds and upland game.

It has been determined that the regulated hunting of migratory game birds and upland game may be permitted on the Hart Mountain National Antelope Refuge without detriment to the objectives for which the area was established.

Notice and public procedure on this amendment are deemed contrary to the public interest because of the proximity of the hunting season in the State of Oregon. Since the amendment benefits the public by relieving existing hunting restrictions on the Hart Mountain National Antelope Refuge, it shall become effective upon publication in the FEDERAL REGISTER.

1. Section 32.11 is amended by the addition of the following area as one where hunting of migratory game birds is authorized:

§ 32.11 List of open areas; migratory game birds.

* * * * *

OREGON

Hart Mountain National Antelope Refuge.

2. Section 32.21 is amended by the addition of the following area as one where hunting of upland game is authorized:

§ 32.21 List of open areas; upland game.

* * * * *

OREGON

Hart Mountain National Antelope Refuge.

STEWART L. UDALL,
Secretary of the Interior.

[F.R. Doc. 64-8698; Filed, Aug. 26, 1964; 8:48 a.m.]

Chapter II—Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER F—AID TO FISHERIES

PART 253—COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT

On Pages 9454 through 9456 of the FEDERAL REGISTER of July 10, 1964, there was published a notice and text of a proposed new Part 253 of Title 50, Code of Federal Regulations. Authority to issue such regulations has been vested in the Secretary of the Interior by section 8 of the Commercial Fisheries Research and Development Act of 1964 (Public Law 88-309).

The purpose of the new part is to establish procedures to be used by the Secretary in providing financial assistance to State Agencies for research and development of the commercial fisheries resources of the Nation and, in cooperation with State Agencies, directly to the commercial fisheries in cases where the Secretary has determined that there is a commercial fishery failure due to a resource disaster arising from natural or undetermined causes.

The notice further provided for submission to the Director, Bureau of Commercial Fisheries, of written comments, suggestions or objections concerning the proposed regulations, within 30 days of publication in the FEDERAL REGISTER, except that comments with respect to § 253.4 Use of Resource Disaster Funds, had to be submitted within 10 days.

Comments have been received and evaluated for § 253.4. Minor changes for clarification purposes have been made.

Since early adoption of the proposed new § 253.4. Use of Resource Disaster Funds, is in the public interest in order to help relieve an emergency due to a commercial fishery failure in the Great Lakes area, this amendment is adopted as set forth below.

§ 253.4 Use of resource disaster funds.

(a) *Determination.* The Secretary shall cause to be published in the FEDERAL REGISTER a notice of finding that a commercial fishery failure due to a resource disaster arising from natural or undetermined causes exists at the time such a finding is made. After such publication, resource disaster funds may be used for the following purposes with the cooperation of the respective State Agencies:

(1) Payments causing the removal from the usual markets of stocks of fish or shellfish of the species listed in the said finding which are preventing normal trade operations. No payments will be made under this paragraph unless the Secretary deems such action necessary to aid in restoring normal trade operations; the person receiving such payment, if not the primary producer, provides evidence that he has reimbursed the primary producer, or such other person from whom the raw fish was purchased; the person receiving such payments has furnished the Secretary with such information regarding purchases, costs, sales, etc., as the Secretary may require; and satisfactory evidence of removal of the products from channels of distribution, including storage, shall be provided to the Secretary. No payments may be made for any product which was removed from storage or other channels of distribution prior to the approval of this Act.

(2) Payments to primary producers of the species of fish listed in the said finding to assist them in obtaining gear or equipment necessary to operate in the same or a different fishery than that affected by the said resource disaster. No payments will be made under this paragraph unless the Secretary deems such action necessary to aid in restoring primary producers adversely affected by the said commercial fishery failure to a condition where they can operate profitably; the person receiving such payments furnishes the Secretary with such information regarding catches, sales and costs as the Secretary may require; and the person receiving such payments agrees to operate the gear purchased

with the assistance of such payment in a manner satisfactory to the Secretary.

(3) Short-term loans for operating expenses of primary producers. When loans are made under this paragraph, the interest rate shall be 3 percent and repayment will be required only from net profits of the fishing operation, which net profit shall be reduced by such reasonable amount as determined by the Secretary for the salary of the fisherman. No such loans will be made unless the Secretary deems such action necessary to aid in restoring primary producers adversely affected by the said commercial fishery failure to a condition that will permit them to resume operations; the funds are not othewise available on reasonable terms; and the past earning and credit record of the applicant is such that it provides reasonable assurance of repayment.

(4) Payments to State Agencies for projects directly related to the restoration of the fishery affected by the said resource disaster or to prevent a similar failure of the fishery in the future. Such preliminary project proposals and their processing will be subject to all regulations relating thereto in this Part, except that these projects will be given preference over other proposed projects with reference to the use of funds obtained under subsection 4(b) of the Act, and Federal funds may be used for 100 percent of the cost of the project if all of the funds are obtained from appropriations authorized under subsection 4(b) of the Act.

(b) *Non-determination.* At any time when there is no finding of a commercial fishery failure as described in subsection (a) of this section, the Secretary may, if he deems such action to be in furtherance of the purposes of the Act, approve preliminary project proposals for funding under subsection 4(b) of the Act from funds carried over from previous fiscal years; provided however, that no preliminary project proposal from any State will be funded under this subsection until that State has had all of its available apportioned funds, if any, obtained from appropriations authorized under subsection 4(a) of the Act, obligated.

This amendment shall become effective on the date of publication in the FEDERAL REGISTER.

JOHN W. KELLEY,
Acting Secretary of the Interior.

AUGUST 24, 1964.

[F.R. Doc. 64-8716; Filed, Aug. 26, 1964; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 12]

CHINCOTEAGUE NATIONAL WILDLIFE REFUGE, VIRGINIA

Proposed Designation of Closed Area Under Migratory Bird Treaty Act

Notice is hereby given that pursuant to the authority vested in me, it is proposed to designate as closed to the hunting of migratory birds, certain areas of land and tidal waters in Accomack County, Virginia, adjacent to the Chincoteague National Wildlife Refuge. The purpose of this designation is to aid administration of the Chincoteague National Wildlife Refuge and to increase the effectiveness of the refuge for the purposes for which it was acquired by the United States.

It is the policy of the Department of the Interior whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposal to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C., 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

The text of the proposed designation is as follows:

This action is taken by virtue of and pursuant to section 3 of the Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755, as amended; 16 U.S.C. 704), and by virtue of the Reorganization Plan II (53 Stat. 1431), and in accordance with section 4(a) of the Administrative Procedure Act of June 11, 1946 (60 Stat. 238; 5 U.S.C. 1003).

Having due regard to the zones of temperature and to the distribution, abundance, economic value, breeding habits, and times and lines of migratory flight of migratory birds included in the terms of the Convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and the Convention between the United States and the United Mexican States for the protection of migratory birds and game mammals, concluded February 7, 1936, I hereby designate as closed areas in or on which pursuing, hunting, taking, capturing, or killing of migratory birds, or attempting to take, capture, or kill migratory birds is not permitted, certain areas of land and tidal waters described as follows:

Certain areas of land and tidal waters in Accomack County, Virginia, on or adjacent to Assateague Island and adjoining the Chincoteague National Wildlife Refuge. Said areas of land and water more particularly described as follows:

Land areas. 1. A tract of land containing 7 acres, more or less, known as Pope Island Coast Guard Station on Assateague Island located about ⅛ mile south of the Maryland-Virginia State line and bounded on the north, west, and south by land of the Chincoteague National Wildlife Refuge, and on the east by the Atlantic Ocean.

Water areas. 1. A body of water known as Wire Bay, located about ¾ mile south of the Maryland-Virginia State line, being that portion of said Wire Bay lying southwesterly from a line extending across the mouth of said bay at the approximate north end of U.S. tract (4g).

2. A body of water known as Virginia Creek, lying about ¾ mile south of the Maryland-Virginia State line, being that portion of said Virginia Creek lying south of the north line of U.S. tract (4h) projected westerly across said Creek.

3. A body of water known as Calf Pen Bay, located on the west side of Assateague Island about 1¾ miles south of the Maryland-Virginia State line, being all of said bay lying south and east of a line extending across the mouth thereof.

4. A body of water known as Cherry Hill Bay, located about 2 miles south of the Maryland-Virginia State line on Assateague Island, being all of said bay lying east of a line across the mouth thereof.

5. A body of water known as Cockle Bank Creek, lying about 2¾ miles south of the Maryland-Virginia State line on Assateague Island, being all of said creek above or east of a line extending across the mouth thereof.

6. A body of water known as Toms Cove, located at the south end of Assateague Island, being all of said cove lying northeasterly of a line across the mouth thereof.

Containing approximately 7 acres of land and 300 acres of water.

STEWART L. UDALL,
Secretary of the Interior.

AUGUST 21, 1964.

[F.R. Doc. 64-8694; Filed, Aug. 26, 1964; 8:48 a.m.]

[50 CFR Part 32]

HUNTING; LOWER SOURIS NATIONAL WILDLIFE REFUGE, NORTH DAKOTA

Proposed List of Open Areas; Upland Game

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), it is proposed to amend 50 CFR 32.21 by the addition of the Lower Souris National Wildlife Refuge, North Dakota, to the list of wildlife refuges open to the hunting of upland game as legislatively permitted.

It has been determined that regulated hunting of upland game may be permitted on the Lower Souris National Wildlife Refuge without detriment to the objectives for which the area was established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections, with respect to this proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C., 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

1. Section 32.21 is amended by the addition of the following area as one where hunting of upland game is authorized:

§ 32.21 List of open areas; upland game.

* * * * *

NORTH DAKOTA

Lower Souris National Wildlife Refuge.

STEWART L. UDALL,
Secretary of the Interior.

AUGUST 21, 1964.

[F.R. Doc. 64-8695; Filed, Aug. 26, 1964; 8:48 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Parts 71 [New], 75 [New]]

[Airspace Docket No. 63-AL-29]

JET ROUTES AND REPORTING POINTS, CONTINENTAL CONTROL AREA, AND TRANSITION AREAS

Proposed Designation, Alteration, and Revocation

In consonance with ICAO International Standards and Recommended Practices, notice is hereby given that the Federal Aviation Agency (FAA) is considering amendments to Part 71 [New] and Part 75 [New] of the Federal Aviation Regulations, the substance of which is stated below. These amendments are related to airspace both within and outside the United States.

Applicability of International Standards and Recommended Practices, by the Air Traffic Service, FAA, in areas outside domestic airspace of the U.S. is governed by Article 12 and Annex 11 to the Convention of International Civil Aviation (ICAO), which pertains to the establishment of air navigation facilities and services necessary to promoting safe, orderly and expeditious flow of civil air traffic. Its purpose is to insure that civil

flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state the U.S. agreed by Article 3(d) that its state aircraft will be operating in international airspace with due regard for the safety of civil aircraft.

Since these actions involve in part the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Federal Aviation Agency in Airspace Docket No. 63–WA–74, published in the FEDERAL REGISTER (29 F.R. 4101) proposed amendments to the Federal Aviation Regulations which would in part, accomplish the following:

1. Alter the lateral and vertical extent of all Federal airways, except in Alaska and Hawaii, where the existing vertical extent would be retained for the Federal airways therein.

2. Alter the vertical extent of jet routes.

3. Revoke intermediate altitude Federal airways.

To improve air traffic service in Alaska and to provide continuity in the airway/route structure in the continental United States, the Federal Aviation Agency proposes the following alterations which would make applicable to Alaska changes in the vertical extent of the airway structure similar to those proposed in Airspace Docket No. 63–WA–74, by amending Parts 71 and 75 [New] of the Federal Aviation Regulations as follows:

1. Amend § 71.5(c)(1) *Extent of Federal airways* by deleting "Alaska and" as proposed in Airspace Docket No. 63–WA–74.

2. Amend § 71.9 *Continental Control area* to read as follows:

The continental control area consists of the airspace of the 48 contiguous states, the District of Columbia, and Alaska south of latitude 68°00'00" N., excluding the Alaska peninsula west of longitude 160°00'00" W., at and above 14,500 feet MSL, but does not include—

(a) The airspace less than 1,500 feet above the surface of the earth; or

(b) Prohibited and restricted areas, other than restricted area military climb corridors and the restricted areas listed in Subpart D of this part.

3. Alter § 71.151 *Restricted areas included* by adding the following restricted areas:

R–2202 Big Delta.
R–2203A Eagle River.
R–2203B Eagle River.
R–2205 Yukon.

4. Amend § 71.161 *Designation of control areas associated with jet routes outside the continental control area* by adding the following:

Jet Route No. 501.
From the United States/Canadian border, via Yakutat, Alaska; to Anchorage, Alaska.
Jet Route No. ------.
From Nome, Alaska, to McGrath, Alaska.

5. Amend § 71.211 *Alaskan low altitude reporting points* to read as follows:

The reporting points listed below are designated up to but not including 18,000 feet MSL.
(No change in listing.)

6. Amend § 71.213 *Alaskan high altitude reporting points* to read as follows:

The reporting points listed below are designated at 18,000 feet MSL to Flight Level 450.

Adak, Alaska, RR.
Anchorage, Alaska.
Annette Island, Alaska, RR.
Bethel, Alaska.
Biorka Island, Alaska.
Cold Bay, Alaska, RR.
Crab INT: INT 227° bearing King Salmon, RR, 314° bearing Port Heiden, Alaska, RBN.
Dillingham, Alaska.
Domestic Sitka INT: INT Biorka Island, Alaska, 207° radial and centerline Middleton Island-Sandspit route.
Domestic Yakutat INT: INT Yakutat, Alaska, 215° radial and centerline Middleton Island-Sandspit route.
Fairbanks, Alaska, RR.
Fluk INT: INT 239° bearing Bethel, Alaska, RR, 311° bearing Cape Newenham, Alaska, RBN.
Fort Yukon, Alaska.
Galena, Alaska.
Gar INT: INT 263° bearing King Salmon, Alaska, RR, 131° bearing Cape Newenham, Alaska, RBN.
Glacier INT: INT Nenana, Alaska, 192° radial, NW course Summit, Alaska, RR.
Haines, Alaska.
Herring INT: INT 248° bearing King Salmon, Alaska, RR, 131° bearing Cape Newenham, Alaska, RBN.
Kenai, Alaska.
King Salmon, Alaska.
Kotzebue, Alaska, RBN.
McGrath, Alaska.
Middleton Island, Alaska.
Nenana, Alaska.
Nome, Alaska.
Northway, Alaska, RR.
Petersburg, Alaska, RR.
Shemya, Alaska, RBN.
Talkeetna, Alaska.
Yakutat, Alaska.
Yakutat, Alaska, RR.

7. Establish, alter or extend the following jet routes to read as follows:

Jet route No. 501 (Seattle, Wash., to Bethel, Alaska). From Seattle, Wash., to the INT of the Seattle 331° radial and the United States/Canadian border (joins Canadian High Level Airway No. 501). From Sandspit B.C. RR, via Biorka Island, Alaska; Yakutat, Alaska; Anchorage, Alaska, to Bethel, Alaska, excluding airspace within Canadian territory.

Jet Route No. ------ (Nome, Alaska, to Middleton Island, Alaska).

From Nome, Alaska, via McGrath, Alaska; Anchorage, Alaska; to Middleton Island, Alaska.

Jet Route No. (502) (Fairbanks, Alaska, to United States-Canadian Border).

From Fairbanks, Alaska, RR, via Northway, Alaska, RR; Snag, Yukon, RR (Joins Canadian High Level airway No. 502/515). From Pon Lake, Yukon, RBN, via Haines, Alaska, RBN; Petersburg, Alaska, RR; Annette Island, Alaska, RR; direct to Ethelda Bay, B.C., RBN, excluding airspace within Canadian territory. (Joins Canadian High Level airway No. 502).

Jet Route No. ------ (Northway, Alaska, to Yakutat, Alaska).

From Northway, Alaska, RR, to Yakutat, Alaska, excluding airspace within Canadian territory.

Jet Route No. ------ (Bethel, Alaska, to Fort Yukon, Alaska).

From Bethel, Alaska, via McGrath, Alaska; Nenana, Alaska; Fairbanks, Alaska, RR, to Fort Yukon, Alaska.

Jet Route No. ------ (King Salmon, Alaska, to Nenana, Alaska).

From King Salmon, Alaska, via Kenai, Alaska; Anchorage, Alaska; Talkeetna, Alaska, to Nenana, Alaska.

Jet Route No. ------ (Nenana, Alaska, to Nome, Alaska).

From Nenana, Alaska, via Galena, Alaska, to Nome, Alaska.

Jet Route No. ------ (McGrath, Alaska, to Kotzebue, Alaska).

From McGrath, Alaska, via Galena, Alaska, to Kotzebue, Alaska.

Jet Route No. ------ (Dillingham, Alaska, to Anchorage, Alaska).

From Dillingham, Alaska, to Anchorage, Alaska.

8. After the King Salmon and Anchorage transition areas to read:

King Salmon, Alaska. That airspace extending upward from 1,200 feet above the surface within a 25-mile radius of the King Salmon Airport (latitude 58°40'40" N., longitude 156°38'55" W.) and within 47 miles SW and 15 miles NE of the 312° bearing from the King Salmon RR, extending from the RR to 85 miles NW; and that airspace extending upward from 14,500 feet MSL outside of the United States within a 172 mile radius of the King Salmon VOR. Federal airways Control 1217, Control 1400, Control 1401, Control 1484, the Kodiak, Alaska, control area extension and the Anchorage control area extension are excluded from the portion extending upward from 14,500 feet MSL.

Anchorage, Alaska. That airspace extending upward from 14,500 feet MSL within 172 miles of the Anchorage VOR. The portions within the United States, Federal airways, Control 1218. Control 1310, the Cordova, Alaska, and Middleton Island, Alaska, control area extensions, the King Salmon transition area, as proposed herein and the Anchorage Oceanic Control area would be excluded.

9. *Revoke the Fairbanks, Alaska, transition area.*

The King Salmon, Anchorage and Fairbanks transition areas were proposed for designation, as a matter of expediency, in Airspace Docket No. 63–AL–30, to implement Agency Order No. OA 7610.1, Program for the Integration and Improvement of Air Defense Activities within the Air Traffic Control System. To further expedite this implementation, a determination was made to propose designation, in Airspace Docket No. 63–AL–30, of only those portions of the transition areas which would not extend beyond three nautical miles of the Alaskan coast line. A further determination has now been made to include the offshore portions of the King Salmon and Anchorage transition areas

in this docket containing a proposal to extend the continental control area to include Alaska. The King Salmon, Anchorage and Fairbanks transition areas proposed in Airspace Docket No. 63–AL–30 would be entirely within the extended continental control area as proposed herein and would no longer serve a useful purpose. Accordingly, it is proposed to revoke the Fairbanks transition area effective concurrently with the alteration of the continental control. The alteration of the Anchorage and King Salmon transition areas, as proposed herein, would automatically delete the inshore portions of these areas as described in Airspace Docket No. 63–AL–30, except for the portion of the King Salmon transition area required to protect terminal operations which would be combined with the offshore portion of the 172-mile radius King Salmon transition area as proposed herein.

Designation of the continental control area to include airspace over Alaska would alter the definition of the continental control area as it appeared in CAR 60. Part 91 [New] superseded CAR 60 but does not contain a definition of the continental control area. If the action proposed herein is adopted, aircraft operating under VFR in that airspace over Alaska included in the continental control area would be subject to the flight visibility and distance from clouds requirements which now apply above 14,500 feet in the contiguous 48 states, thereby reducing the risk of collision for the high performance aircraft which typically operate at the higher altitudes. The extension of controlled airspace and air traffic control service provided in that airspace would further enhance safety of flight.

The designation of jet routes at the higher levels and airways at the lower altitudes would permit development and charting of an airway/route system compatible with the requirements of both high and low altitude operations.

Radar advisory service from flight level 240 to flight level 410 would continue to be provided in Alaska to civil air carrier turbojet aircraft from radar equipped air route traffic control centers and selected military radar facilities in areas where a requirement exists. Pilots of aircraft currently operating at these flight levels may voluntarily participate in the provision of this service by complying with published flight procedures.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Alaskan Region, Attn: Chief, Air Traffic Division, Federal Aviation Agency, 632 Sixth Avenue, Anchorage, Alaska, 99501. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Division Chief, or the Chief, Airspace Regulations and Procedures Division, Federal Aviation Agency, Washington, D.C., 20553. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel: Attention Rules Docket, 800 Independence Avenue SW., Washington, D.C. An informal docket will also be available for examination at the office of the Regional Air Traffic Division Chief.

These amendments are proposed under Secs. 307 (a), (c), and 1110 of the Federal Aviation Act of 1958 (72 Stat. 749 and 800; 49 U.S.C. 1348 and 1510), and Executive Order 10854 (24 F.R. 9565).

Issued in Washington, D.C., on August 20, 1964.

CLIFFORD P. BURTON,
Acting Director,
Air Traffic Service.

[F.R. Doc. 64–8668; Filed, Aug. 26, 1964; 8:45 a.m.]

[14 CFR Part 75 [New]]

[Airspace Docket No. 63–WA–95]

JET ROUTE

Proposed Designation

Notice is hereby given that the Federal Aviation Agency (FAA) is considering an amendment to Part 75 [New] of the Federal Aviation Regulations, the substance of which is stated below.

The Canadian Department of Transport plans to designate a high altitude airway in Canadian airspace from the Wiarton, Ontario, VOR to the United States/Canadian border via the direct radials between the Wiarton and Peck, Mich., VORs, and has requested that this airway be continued as a jet route over United States airspace to the Peck VOR. This routing in conjunction with existing J–101/HL–548 would provide a dual structure between Nitchequon, Quebec, and Chicago, Ill.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Regulations and Procedures Division, Federal Aviation Agency, Washington, D.C., 20553. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Regulations and Procedures Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Federal Aviation Agency, Office of the General Counsel: Attention Rules Docket, 800 Independence Avenue SW., Washington, D.C., 20553.

This amendment is proposed under Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on August 21, 1964.

H. B. HELSTROM,
Acting Chief, Airspace Regulations and Procedures Division.

[F.R. Doc. 64–8669; Filed, Aug. 26, 1964; 8:45 a.m.]

Notices

ATOMIC ENERGY COMMISSION

STATE OF KANSAS

Proposed Agreement for Assumption of Certain AEC Regulatory Authority

Notice is hereby given that the U.S. Atomic Energy Commission is publishing for public comment, prior to action thereon, a proposed agreement received from the Governor of the State of Kansas for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

A résumé, prepared by the State of Kansas and summarizing the State's proposed program, was also submitted to the Commission and is set forth below as an appendix to this notice. Attachments referenced in the appendix are included in the complete text of the program. A copy of the program, including proposed Kansas regulations, is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., or may be obtained by writing to the Director, Division of State and Licensee Relations, U.S. Atomic Energy Commission, Washington, D.C., 20545. All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed agreement should send them, in triplicate, to the Secretary, U.S. Atomic Energy Commission, Washington, D.C., 20545, within 30 days after initial publication in the FEDERAL REGISTER.

Exemptions from the Commission's regulatory authority which would implement this proposed agreement, as well as other agreements which may be entered into under section 274 of the Atomic Energy Act, as amended, were published as Part 150 of the Commission's regulations in FEDERAL REGISTER issuance of February 14, 1962; 27 F.R. 1351. In reviewing this proposed agreement, interested persons should also consider the aforementioned exemptions.

Dated at Washington, D.C., this 4th day of August 1964.

For the Atomic Energy Commission.

F. T. HOBBS,
Acting Secretary to the Commission.

PROPOSED AGREEMENT BETWEEN THE UNITED STATES ATOMIC ENERGY COMMISSION AND THE STATE OF KANSAS FOR DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY AND RESPONSIBILITY WITHIN THE STATE PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Whereas, The United States Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act) to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8 and Section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, The Governor of the State of Kansas is authorized under Chapter 290 of the 1963 Session Laws of the State of Kansas to enter into this Agreement with the Commission; and

Whereas, The Governor of the State of Kansas certified on July 24, 1964, that the State of Kansas (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, The Commission found on _____ that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, The State recognizes the desirability and importance of maintaining continuing compatibility between its program and the program of the Commission for the control of radiation hazards in the interest of public health and safety; and

Whereas, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemption from licensing of those materials subject to this Agreement; and

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

Article I. Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

A. Byproduct materials;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

Article II. This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

Article III. Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

Article IV. This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article V. The Commission will use its best efforts to cooperate with the State and other agreement states in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other agreement states in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

Article VI. The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VII. The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

Article VIII. This Agreement shall become effective on January 1, 1965, and shall remain in effect unless, and until such time as it is terminated pursuant to Article VII.

POLICIES AND PROCEDURES

Introduction

Foreword. The following narrative presents a brief description of the history, practices, capabilities and proposed activities of the Industrial, Radiation and Air Hygiene Program of Environmental Health Services, Kansas State Department of Health, particularly as they relate to the assumption of certain regulatory functions of the United States Atomic Energy Commission.

Section 274b of the Atomic Energy Act of 1954, as amended, authorizes the Atomic Energy Commission to enter into an agreement with the Governor of a State whereby the Commission may transfer to the State certain licensing and regulatory control of byproduct, source and special nuclear materials in quantities not sufficient to form a critical mass. Discontinuance of the Federal government's responsibilities with respect to these sources of ionizing radiation and assumption thereof by the State is made

when the Atomic Energy Commission has evaluated and accepted the competency of the State to administer licensing and regulatory authority of such sources.

The Nuclear Energy Development and Radiation Control Act, Chapter 290, 1963 Legislature, State of Kansas, authorizes the Governor of Kansas to enter into agreements with the Federal government, to appoint from among the residents of the State a Nuclear Energy Advisory Council; and designates the Kansas State Board of Health as the official agency responsible for radiation control. Further, the Act: Instructs the Board, (a) to develop programs for evaluation of hazards associated with the use of radiation, (b) develop programs, with due regard for compatibility with Federal programs, for regulation and inspection of byproduct, source and special nuclear materials; and authorizes the Board, (a) to require licensing or registration of all sources of ionizing radiation, (b) to provide for recognition of other State or Federal licenses, and (c) to enter into, subject to the approval of the Governor, an agreement or agreements with the Federal government, other States or intrastate agencies, for inspections or other functions relating to the control of ionizing radiation. The Act provides that the State regulatory program will be maintained so as to provide for compatibility with the regulatory programs of the Federal government and, insofar as possible, with the regulatory programs of other States.

Attached to this narrative are copies of the Proposed Agreement, the Nuclear Energy Development and Radiation Control Act, the Kansas Radiation Protection Regulations, various forms and résumés, and a statement of the policies and procedures to be utilized by the Radiological Health Section of the Industrial, Radiation and Air Hygiene Program of Environmental Health Services, Kansas State Department of Health pursuant to an agreement between the United States Atomic Energy Commission and the State of Kansas.

History. The Kansas State Department of Health has been involved in radiological health activities since the mid-1940's through the industrial hygiene, (or occupational health) programs where occupational radiation exposures were encountered. Problems at that time included radiation exposures in radium dial painting, industrial radiography, and the use of thorium in the manufacture of lamp and lantern mantles.

In 1949 the State Board of Health was designated by the Governor as the State agency to receive and be responsible for keeping data and information from the Atomic Energy Commission concerning those persons and organizations in Kansas who were issued authorizations to acquire and use radioactive isotopes produced in the atomic energy program. Since that time, personnel of the Department of Health have made joint inspections with the representatives of the Atomic Energy Commission of those holders of authorizations; and since 1957 when the authorization program was changed to a licensing program, of those licensees of the Atomic Energy Commission who are licensed to possess and use byproduct, source and special nuclear materials.

In 1950 the State Board of Health adopted a regulation requiring the placarding of all shoe fitting flouroscopes in the State with appropriate warning signs. In connection with this regulation, Department personnel conducted a radiation survey of all the shoe fitting fluoroscopes in the State.

In October of 1956 a Radiological Health Advisory Committee to the State Board of Health was assembled for the purpose of advising the staff of the Department on technical matters relating to radiation problems and to recommend to the Board such action as the Committee might deem desirable. The membership of the Committee included individuals especially qualified to represent the various fields of endeavor where radiation is utilized such as: medicine, dentistry, industry, agriculture, research, and teaching. This Committee worked with the staff in all important phases of the program, particularly in the formulation of radiation protection regulations and proposed legislation. The State Board of Health adopted a regulation prohibiting shoe fitting fluoroscopes, and requiring registration of radiation sources, and the Board supported a radiation protection act which was adopted by the 1959 Legislature.

The Radiation Protection Act of the 1959 Legislature gave the State Board of Health broad responsibility and authority for radiation protection, required registration of all radiation sources in the State, and required adoption of necessary regulations by the Board. This legislative session also produced an Atomic Energy Development Act which empowered the Governor to appoint a Governor's Atomic Energy Advisory Council and a Coordinator of Atomic Energy Development Activities. The Council was charged with the responsibility of advising the Governor and Coordinator concerning the development, utilization and regulation of atomic energy and other forms of radiation.

After two years of study and development by the Department staff and the Radiological Health Advisory Committee to the State Board of Health, a comprehensive set of Radiation Protection Regulations was completed. These regulations were approved by the Governor's Atomic Energy Advisory Council, and after a public hearing, adopted by the Board, becoming effective September 1, 1961.

The 1961 regulations provided for the registration of all sources of ionizing radiation with the Department of Health and for appropriate control of these sources. The Department developed a comprehensive radiation control program designed to govern and ensure safeguards for the various aspects of use, transfer, storage and disposal of radiation sources and machines. This program expanded with the increasing use of radioactive sources, X-ray machines and other radiation producing equipment.

The primary emphasis in the radiation control program has been placed on those radiation sources not regulated or otherwise under the jurisdiction of the Atomic Energy Commission such as X-ray machines and radium sources. As of January 1, 1964, there were approximately 2500 X-ray machines and 65 radium users in the State. Periodic, routine inspectional surveys are conducted to determine and correct radiological health hazards associated with the use of medical, dental, and industrial radiographic X-ray installations, and radium users. As of January, 1964, approximately 50 percent of the X-ray installations have been surveyed, and approximately 75 percent of the radium installations have been surveyed. This survey work is increasing rapidly as the Department staff grows, allowing a sufficient number of manhours to be devoted to the inspection program.

Additional program areas were developed in order to provide a complete and comprehensive radiation control program. These activities included a program of environmental monitoring for air, surface water, and milk; vehicle registration and identification for those vehicles transporting sources of ionizing radiation within the State; radioactivity countermeasures evaluations and planning; and an emergency plan for handling incidents involving transport of radioactive materials.

Current inspections of installations include a complete review by the inspector of the user's equipment and facilities; the method and equipment for handling and storage of radioactive materials; interviews with the personnel responsible for both radiation safety and actual operations using the radioactive material; survey methods and results; posting and labeling of the sources and areas with the proper signs and labels; methods and effectiveness of maintaining control of individuals in restricted areas; records of receipts, transfers, inventories, and disposal of radioactive materials or machines; and disposal of radioactive materials to the sewer system or the soil. Inspection procedures of this general type will be used in the future for inspections of all installations using radioactive material and/or radiation producing machines.

Program Description

The Radiation Control Program proposed under an agreement will be conducted by the Radiological Health Section of the Industrial, Radiation and Air Hygiene Program, Environmental Health Services, Kansas State Department of Health.

Licensing and registration. The State program will control all sources of ionizing radiation, other than those sources for which regulatory authority has been retained by the Atomic Energy Commission. Provisions have been made for the issuance of general and specific licenses for radioactive materials. Such licenses are required for the receipt, use, possession, transfer or disposal of all radioactive materials regardless of the form of such materials. Allowances have been made for exemptions of certain items which contain less than specified amounts of radioactive material of particular types. Examples of such exemptions are those for certain luminous timepieces, automobile lock illuminators, and thorium lamp and lantern mantles. Under the provisions of the regulations:

1. General licenses are effective without the filing of applications with the Department or the issuance of licensing documents to particular persons. The State will issue general licenses under specified circumstances when more stringent control by specific licenses is found to be unnecessary to protect public health and safety.

2. Specific licenses are issued by the State of Kansas to named persons upon applications filed pursuant to the regulations. Basically the regulations regarding specific licenses require that:

(a) The applicant is qualified by reason of training and experience to use the material in question for the purpose requested;

(b) The applicant's proposed location, equipment, facilities, and procedures are adequate to protect health and minimize danger to life and property;

(c) The issuance of the license will not be inimical to the health and safety of the public;

(d) The material may be used only for the purpose authorized in the license;

(e) The material may not be transferred except to a person or persons authorized to receive it.

Every person not already registered who possesses a registrable item (any radiation machine capable of producing radiation), on the effective date of the regulations is required to re-register with the Department within 60 days of the effective date. Persons who acquire possession of a registrable item subsequent to the effective date are required to register within 30 days of the acquisition of such item or items.

A Medical Advisory Committee to the Radiological Health Section, consisting of three radiologists, one internist, one hematologist and one surgeon, which has a thorough knowledge and working experience with the use of radioactive materials in the practice of medicine, will be used for consultations and recommendation concerning license applications for the human use of radioactive materials. As general guides in the evalua-

tion of license applications, the Radiological Health Section and the Medical Advisory Committee will utilize applicable criteria as presented by Atomic Energy Commission publications including: "Licensing Requirements for Teletherapy Programs," "Licensing Requirements for Broad Licenses for Research and Development" "Licensing Requirements for Broad Medical Use," and "Medical Use of Radioisotopes." The Radiological Health Section and the Medical Advisory Committee will also maintain knowledge of current developments, techniques, and procedures for medical uses by contact and correspondence with the Atomic Energy Commission, and other agreement States.

Inspection. Periodic inspections will be conducted to determine a licensee's or registrant's degree of compliance with regulations and license conditions. These inspections will be performed by personnel of the Radiological Health Section who are qualified to evaluate radiological health hazards and are conversant with the regulations.

The majority of the inspections will be unannounced. The following frequency is planned, but may be either increased or decreased depending upon individual circumstances:

Industrial radiographers—once each 6 months.
Operations involving waste disposal—once each 6 months.
Broad licenses—Industrial, medical, academic—once each 12 months.
Specific licenses—Industrial, medical, academic—once each 24 months.
Other—Time available basis.

It is expected that all licensed activities will be inspected at least once in every two-year period.

Inspection visits will usually include a comprehensive review by the inspector of the licensee's equipment, facilities and handling or storage of radioactive material; the procedures in effect, including actual operation; and interviewing of personnel directly involved. The inspectors will review the licensee's survey methods and results, personnel monitoring practices and results, posting and labeling used, the instructions to personnel and the methods and apparent effectiveness of maintaining control of individuals in the controlled area. The inspector will also review the licensee's record of receipts, transfers, and inventory of licensed material. He will examine records concerning any disposals which might have been made. He may make measurements of radiation levels. Before the termination of each inspection, the inspector will meet with the management to discuss the results of his inspection. At this time he will present tentative oral recommendations or suggestions, and will attempt to answer questions concerning the regulatory program.

The inspector will prepare a detailed report to inform his supervisor of all the facts and circumstances observed during the inspection. The report will enumerate violations, if any, and include recommendations for corrective action. Recommendations made by field personnel will be subject to critical review by senior members of the Industrial, Radiation and Air Hygiene Program and the Director of Environmental Health Services.

Licensees and registrants will be informed of the results of all inspections, first orally at the time of the inspection, and finally, furnished with a written report or notice from the Department.

In addition there will be investigations of all incidents and reasonable complaints involving licensed or registered sources of radiation to determine the cause, the measures taken by the licensee or registrant to cope with the incident, whether or not there was noncompliance with the regulations, and steps taken by the licensee to avoid a recurrence of the incident.

Compliance and enforcement. Reports of inspections of licensee's and/or registrant's activities will be evaluated to determine the degree of compliance of the licensees and registrants with the Board's regulations, and registration or license conditions. If no items of noncompliance are observed, the person will be so informed. For minor items of noncompliance, which the licensee agrees to correct at the time of the inspection, the licensee will be informed by letter. This notification will inform the licensee of the items of noncompliance, and that corrective action taken by the licensee will be reviewed during the next inspection.

If the inspection reveals items of noncompliance of a more serious nature, the licensee will be informed by letter of the items of noncompliance and required to reply, usually within 15–30 days, as to the corrective action taken and the date completed. The Department will then conduct a followup inspection or the matter will be reviewed during the next regular inspection to ensure that the corrective action has in fact been accomplished.

Whenever, in the judgment of the Board, any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of the Act or any rule, regulation or order issued thereunder, the Attorney General is empowered to make application for a court order enjoining such acts or practices, or for a court order directing compliance.

Whenever the Executive Secretary of the Board finds that an emergency exists requiring immediate action to protect public health and safety, he may without notice issue an emergency order reciting that an emergency exists and requiring that such action be taken as is necessary to meet the emergency.

The full legal procedures will normally be employed only in those instances where there is continued and repeated noncompliance, existence of a state of emergency, willful negligence on the part of the licensee, or where a serious potential hazard exists.

Section 9 of the Act empowers the Board or its duly authorized representatives to enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violation of the provisions of the Act, and rules and regulations of the Board issued under the Act.

Administrative procedure and judicial review. Section 8 of the Nuclear Energy Development and Radiation Control Act provides for a hearing, at the written request of any person whose interest may be affected by the proceeding, when the Board issues or modifies rules or regulations, grants, suspends, revokes or amends any license.

Whenever the Executive Secretary of the Board finds that an emergency exists, he may without notice issue an emergency order. Such order may be issued orally, and confirmed by written order mailed within twenty-four (24) hours after issuance of the oral order. This emergency order is effective immediately and the person(s) to whom the order is directed shall comply therewith immediately. Any person aggrieved by the issuance of such an emergency order has the right to request a hearing within fifteen (15) days of the issuance of the order. If a hearing is requested, the hearing must be held within thirty (30) days. Upon the basis of the decision reached at the hearing, the Board shall issue an order containing the determination of its findings to the alleged violator within thirty (30) days after the conclusion of the hearing.

An appeal may be taken from any final order or final determination of the Board by any person adversely affected thereby. Jurisdiction for all such appeals is vested solely in the District Court of Shawnee County, Kans.

Organization, procedures and staffing. The authority of the State Health Officer includes delegation of pertinent responsibilities subject to approval by the State Board of Health. This is accomplished by delegation of administrative direction to the service directors of the Department, and through them to specified staff members and certain personnel involved in full-time and part-time direction and implementation of specific departmental programs.

The Radiation Control Program is conducted by the Chief of the Radiological Health Section. The planning and direction of this program is the responsibility of the Director of the Industrial, Radiation and Air Hygiene program and the Director of Environmental Health Services, together with the Chief of the Radiological Health Section. Implementation of the specific responsibilities included in radiation control is accomplished by the Supervisors of Licensing and Registration, Environmental Surveillance, and Field Inspection and Surveys. Laboratory support services for these responsibilities are conducted by the Industrial, Radiation and Air Hygiene Laboratory which is under the direction of the Supervisor of Environmental Surveillance. Organizational charts are provided in the attachments to the narrative for further references.

Authority and responsibility for administering Kansas Radiation Protection Regulations, covering the statutory licensing of byproduct, source, special nuclear materials, or devices or equipment utilizing such materials, has been assigned to the Chief of the Radiological Health Section. Under his direction, applications for licenses will be approved or disapproved. He will issue denials for cause or denials without prejudice. He may terminate a license, after opportunity has been afforded the licensee for a hearing before the State Board of Health, a hearing officer designated by the Board, or the State Health Officer, due to failure to correct items of noncompliance, or for other justified causes. Under his administrative control the Supervisors of Licensing and Registration, Environmental Surveillance, and Field Inspection and Survey activities will provide technical assistance and consultation as required in the discharge of their separate and collective responsibilities regarding the State radiation control program.

Qualifications and training of the present staff members reflect the necessary education, training and experience to ensure competent administration and implementation of the program in radiation control. Individual resumes of training and experience are provided in the attachment to this narrative. All future replacements of present staff as required by vacancies will be evaluated to assure that their training and experience are at least equal to those presently employed. Job descriptions and training and experience requirements are outlined in an attachment. These requirements will be used as a basis for evaluating qualifications of applicants for staff positions.

Reciprocity. Regulations of the Board provide for the recognition of licenses issued by the U.S. Atomic Energy Commission or other agreement States.

Continuing compatibility. It is the policy of the State of Kansas to institute and maintain a regulatory program for sources of ionizing radiation so as to provide for compatibility with the standards and regulatory program of the Federal government and a system consonant insofar as possible with those of other States.

[F.R. Doc. 64–7944; Filed, Aug. 5, 1964; 8:53 a.m.]

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO. ET AL.

Issuance of Order Adding Condition to Construction Permit

Please take notice that the Atomic Energy Commission has issued an order, set forth below, adding a condition to Provisional Construction Permit No. CPPR-13 issued to Southern California Edison Company, San Diego Gas & Electric Company, Bechtel Corporation, and Westinghouse Electric Corporation for the construction of a pressurized light water reactor designed to operate at 1210 megawatts (thermal), to be located on the Pacific coast near the northern boundary of Camp Pendleton, San Diego County, California.

A copy of the application filed May 21, 1964, is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 20th day of August 1964.

For the Atomic Energy Commission,

R. L. DOAN,
Director,
Division of Reactor Licensing.

On May 21, 1964, Southern California Edison Company, San Diego Gas & Electric Company, Bechtel Corporation, and Westinghouse Electric Corporation filed Amendment No. 7 to their application requesting an amendment of construction permit CPPR-13 in the form set forth below.

Good cause having been shown: *It is hereby ordered,* Pursuant to the Atomic Energy Act of 1954, as amended, that paragraph 3 of the provisional construction permit dated March 2, 1964, is hereby redesignated paragraph 4 and the following new paragraph 3 is added:

"Upon completion of the construction of the facility in accordance with the terms and conditions of this permit, upon filing of the additional information needed to bring the original application up to date, and upon a finding by the Commission that the facility has been constructed and will operate in conformity with the application, as amended, and in conformity with the provisions of the Act and the rules and regulations of the Commission, upon filing of proof of financial protection and execution of an indemnity agreement as required by section 170 of the Act, and in the absence of any good cause being shown to the Commission why the granting of a license would not be in accordance with the provisions of the Act, the Commission will issue a Class 104 license to the Applicants pursuant to section 104b of the Act for a period of 40 years from the date of issuance of this permit."

Date of issuance: August 20, 1964.

For the Atomic Energy Commission.

R. L. DOAN,
Director,
Division of Reactor Licensing.

[F.R. Doc. 64-8699; Filed, Aug. 26, 1964; 8:48 a.m.]

POST OFFICE DEPARTMENT

ALGERIA

Notice of Partial Suspension of Parcel Post Service

Due to destruction by fire of the parcel post facilities at the post office of Algiers, and congestion at the office of Oran, Algeria, parcels for the following regions of Algeria are presently being stored at Marseille, France:

Alger (Algiers).	Orleansville.
Medea.	Oasis.
Tizi-Ouzou.	Constantine (except Philippeville).
Batna.	Tiaret.
Oran.	Saida.
Tlemcen.	Saoura.
Mostaganem.	
Setif.	

Under the circumstances, parcel post service to the regions named is temporarily suspended. Only parcels for Philippeville and the Department of Bone are being regularly forwarded from Marseille, and will continue to be accepted.

The Parcel Post provisions under the country heading "Algeria" in § 168.5 of Title 39 Code of Federal Regulations will not be amended due to the temporary nature of the suspension. Notice will be given when regular service is resumed.

(R.S. 161, as amended; 5 U.S.C. 22, 39 U.S.C. 309, 501, 505)

LOUIS J. DOYLE,
General Counsel.

[F.R. Doc. 64-8681; Filed, Aug. 26, 1964; 8:46 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ARIZONA

Order Opening Unclassified Lands to Application

1. Pursuant to authority delegated to me by Bureau Order No. 701, dated July 23, 1964 (29 F.R. 10526), I hereby open the following described lands to the filing of applications on Form 4-776 in accordance with the provisions of the Act of June 1, 1938 (43 U.S.C. 682 a-e), as amended, and the regulations in 43 CFR Part 2233:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 13 N., R. 10 W.,
Sec. 8, N½NW¼NW¼SW¼.

Containing 5 acres.

2. The lands have not been classified for disposition as a small tract, and petition applications for the lands will be considered on their merits in accordance with the criteria set forth in 43 CFR Part 2233, and the requirements as determined by classification of the land capability.

3. Petition applications for this tract may be filed on or after the date of publication of this order in the FEDERAL REGISTER as outlined in 43 CFR Part 2233.

4. Copies of the small tract regulations and petition application forms may be secured from the U.S. Bureau of Land Management, Arizona Land Office, Room 3022, Federal Building, Phoenix, Arizona, 85025.

Dated: August 19, 1964.

FRED J. WEILER,
State Director.

[F.R. Doc. 64-8683; Filed, Aug. 26, 1964; 8:47 a.m.]

NEVADA

Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 19, 1964.

The Department of Agriculture, U.S. Forest Service, has filed an application, Serial Number Nevada 064861, for the withdrawal of the land described below, from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws nor the disposals of material under the Act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604) as amended. The applicant desires the land for use as an administrative site.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P. O. Box 1551, Reno, Nevada.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the U.S. Forest Service.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, NEVADA

T. 2 N., R. 42 E.,
Sec. 2, A tract of land within the NE¼, described as follows:

Commencing at corner No. 4 of Mineral Survey No. 2080; thence N. 35°50' E., along the east boundary of M.S. No. 2080, 312.41 feet to the true point of beginning; thence N. 35°50' E., 406.89 feet to corner No. 3 of M.S. No. 2080; thence N. 28°22' E., along the east boundary of M.S. No. 2080, 195.5 feet; thence S. 67°52' E., 299.2 feet to a point on the west boundary of M.S. No. 4729; thence S. 5°32' W., along the west boundary of M.S. No. 4729, 422.3 feet to corner No. 4 of said Mineral Survey; thence S. 5°32' W., 82.8 feet; thence N. 78°32' W., 571.0 feet to the point of beginning.

The area described above contains approximately 5.2 acres.

LEWIS G. CHICHESTER, Jr.,
Acting Chief, Division of Lands and Minerals Management.

[F.R. Doc. 64-8684; Filed, Aug. 26, 1964; 8:47 a.m.]

NEVADA

Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 19, 1964.

The Department of Agriculture, U.S. Forest Service, has filed an application, Serial Number Nevada 064862, for the withdrawal of the lands described below from prospecting, location, entry and purchase under the mining laws. The applicant desires the land for a campground and picnic site.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 1551, Reno, Nevada.

A report will be prepared by an authorized officer of the Bureau of Land Management for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the U.S. Forest Service.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, NEVADA

T. 6 N., R. 30 E.,
Sec. 6, N½ lot 3, SW¼ lot 3.

The land described contains approximately 30.23 acres.

LEWIS G. CHICHESTER, Jr.
Acting Chief, Division of Lands and Minerals Management.

[F.R. Doc. 64-8685; Filed, Aug. 26, 1964; 8:47 a.m.]

NEW MEXICO

Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 20, 1964.

The National Aeronautics and Space Administration, has filed an application, Serial Number New Mexico 0554274, for the withdrawal of the lands described below, from all forms of appropriation including the general mining and the mineral leasing laws. The applicant desires the land for a buffer area to protect the adjoining precision antenna radiation pattern measuring range which is operated by the Physical Science Laboratory of the New Mexico State University.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Acting State Director, P.O. Box 1449, Santa Fe, New Mexico, 87501.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the National Aeronautics and Space Administration.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

NEW MEXICO PRINCIPAL MERIDIAN

NEW MEXICO

T. 23 S., R. 2 E.,
Sec. 13;
Sec. 14, N½, SE¼;
Sec. 15, Lots 15 to 169, inclusive;
Sec. 24;
Sec. 25.

The area described contains 2789.07 acres.

W. J. ANDERSON,
Acting State Director.

[F.R. Doc. 64-8686; Filed, Aug. 26, 1964; 8:47 a.m.]

WASHINGTON

Notice of Proposed Withdrawal and Reservation of Lands

The U.S. Army, Corps of Engineers, has filed an application, serial number Washington 05363, for the withdrawal of public lands in the sections and townships described below from all forms of appropriation under the public land laws, including the general mining laws. The applicant desires the land for the construction of the Ice Harbor Lock and Dam to provide power, flood control and navigation facilities on the Snake River.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 670 Bon Marche Building, Spokane, Washington.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Corps of Engineers.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The lands involved in the application are:

WILLAMETTE MERIDIAN

T. 9 N., R. 32 E.,
In Secs. 2, 4, 5, 8, 9, 19.
T. 10 N., R. 32 E.,
In Secs. 12 and 26.
T. 10 N., R. 33 E.,
In Secs. 7, 8, 9.
T. 12 N., R. 33 E.,
In Sec. 36.
T. 12 N., R. 34 E.,
In Secs. 3 and 19.

The areas described aggregate approximately 230.61 acres.

JOHN E. BURT, Jr.,
Officer in Charge.

[F.R. Doc. 64-8687; Filed, Aug. 26, 1964; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

MANAGER

Notice of Basic Compensation

Pursuant to the provisions of section 309 of the Government Employees Salary Reform Act of 1964 (Public Law 88-426), notice is given that the basic compensation for the position of Manager of the Federal Crop Insurance Corporation of the United States Department of Agriculture, is hereby established at $24,500 per annum effective August 16, 1964.

Dated: August 21, 1964.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 64-8661; Filed, Aug. 26, 1964; 8:45 a.m.]

Office of the Secretary

ILLINOIS

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Illinois natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

ILLINOIS

Alexander.	Madison.
Bond.	Marion.
Brown.	Mason.
Calhoun.	Montgomery.
Cass.	Morgan.
Clay.	Perry.
Clinton.	Pulaski.
Edwards.	Randolph.
Fayette.	Richland.
Greene.	Scott.
Jackson.	Union.
Jefferson.	Wabash.
Jersey.	Washington.
Johnson.	Wayne.
Macoupin.	

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after December 31, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 24th day of August 1964.

CHARLES S. MURPHY,
Acting Secretary.

[F.R. Doc. 64-8711; Filed, Aug. 26, 1964; 8:49 a.m.]

IOWA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Iowa a natural disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

IOWA

Howard.	Mitchell.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 24th day of August 1964.

CHARLES S. MURPHY,
Acting Secretary.

[F.R. Doc. 64-8712; Filed, Aug. 26, 1964; 8:49 a.m.]

NEW MEXICO AND NORTH CAROLINA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of New Mexico and North Carolina a natural disaster has caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

NEW MEXICO

Colfax.	Harding.
Union.	

NORTH CAROLINA

Haywood.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1965, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 24th day of August 1964.

CHARLES S. MURPHY,
Acting Secretary.

[F.R. Doc. 64-8713; Filed, Aug. 26, 1964; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 14912]

JENSEN AIR FREIGHT ET AL.

Application for Approval of Control and Interlocking Relationships

Application of Jensen Air Freight, a division of World Freight Forwarders, Inc., et al., for approval of control and interlocking relationships under sections 408 and 409 of the Federal Aviation Act of 1958, as amended, Docket 14912.

Notice is hereby given, pursuant to the statutory requirements of section 408(b), that the undersigned intends to issue the following order under delegated authority. Interested persons are hereby afforded a period of fifteen days from date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., August 24, 1964.

[SEAL] J. W. ROSENTHAL,
Chief, Routes and Agreements Division, Bureau of Economic Regulation.

ORDER APPROVING CONTROL AND INTERLOCKING RELATIONSHIPS

By Order E-6615, adopted July 21, 1952 in Docket 5583, the Board acting pursuant to section 408 of the Civil Aeronautics Act of 1938, now the Federal Aviation Act of 1958, as amended, (the Act) approved the common control of Norman G. Jensen, d/b/a World Freight Forwarders (Air), hereinafter referred to as World, an air freight forwarder, and Norman G. Jensen, Inc. (Jensen, Inc.), an agent representing certain members of the International Air Transport Association in the sale of air cargo transportation, by Norman G. Jensen as a result of his being the sole proprietor of World and his holding a controlling interest in Jensen, Inc. Certain interlocking relationships involving Mr. Jensen were also approved under section 409 of the Act.

By application filed December 9, 1963, as amended June 3, 1964, in Docket 14912, Jensen Air Freight, a division of World Freight Forwarders, Inc. (Jensen), Norman G. Jensen and his wife, Charlotte A. Jensen, request the Board to approve certain control and interlocking relationships.

The application requests approval of control relationships resulting from the joint control by Norman G. Jensen and Charlotte A. Jensen of 96 percent of the outstanding voting stock of Jensen, an applicant for air freight forwarder authority[1] of 49 percent of the stock of Jensen, Inc.[2] of 100 percent of the stock of Norman Jensen Delivery, Inc. (Delivery), an intrastate common carrier by motor vehicle operating in the Anchorage, Alaska, area and the Fairbanks, Alaska, area[3] and of 100 percent of the stock of Norman Jensen Transfer, Inc. (Transfer), an intrastate common carrier by motor vehicle operating in the Seattle, Washington, area.[4] The application also requests approval under section 409 of the Act of the Interlocking relationships resulting from Mr. Jensen's positions as president and director of Jensen, Delivery and Transfer and treasurer and director of Jensen, Inc., and of Mrs. Jensen's positions as director of Jensen and secretary and director of Jensen, Inc.

Applicants state that the reason for the proposed transfer of World's air freight forwarder authority to Jensen is that they desire to bring their son into the business as a stockholder, and that it is more desirable to conduct business as a corporation than as a sole proprietorship.[5] Applicants further state that Delivery and Transfer will perform pickup and delivery services for Jensen; that Jensen, Inc. will act as agent for Jensen at Seattle, Washington, and San Francisco, California; that such relationships are not contrary or detrimental to the public interest; and that the relationships involving Jensen and Jensen, Inc. are basically the same as those involving World and Jensen, Inc. which the Board has previously approved.

No adverse comments or requests for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published

[1] The operating authorizations of World as a domestic and international air freight forwarder will be tendered to the Board for cancellation upon the issuance of operating authorizations to Jensen.

[2] This interest amounts to 73 shares of common stock, of which 72 shares are controlled by Mr. and Mrs. Jensen as voting trustees for their children.

[3] Such activities include the pickup and delivery of air freight.

[4] See footnote 3, supra.

[5] Individual applicants' son, Norman G. Jensen II, will own 4 percent of Jensen's stock.

in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the application, it is concluded that Jensen, Inc. is a person engaged in a phase of aeronautics within the meaning of section 408 of the Act, that Delivery and Transfer are common carriers within the meaning of section 408 of the Act, and that the common control of Jensen, Jensen, Inc., Delivery and Transfer by Norman G. Jensen and Charlotte A. Jensen is subject to section 408 of the Act. However, it has been further concluded that such relationships do not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly and do not restrain competition. Furthermore, no person disclosing a substantial interest in this proceeding is currently requesting a hearing and it is found that the public interest does not require a hearing. The control relationships involving Jensen and Jensen, Inc. are basically the same as those which the Board previously approved by Order E-6615. The control relationships involving Jensen and Delivery and Transfer are also similar to other relationships previously approved by the Board.[6] It therefore appears that approval of the control relationships would not be inconsistent with the public interest.[7] However, should the trucking services of either Delivery or Transfer be expanded to include, for example, interstate services, new issues would be raised which could be resolved only upon the filing of a further application for prior approval of the Board. Accordingly, we shall provide that approval of the instant relationships shall be effective only so long as the operation of motor vehicles by Delivery and Transfer is limited to the State of Alaska and the State of Washington, respectively.

It is also concluded that interlocking relationships within the scope of section 409 of the Act will exist as a result of the holding by Norman G. Jensen and Charlotte A. Jensen of the positions described herein. It is further concluded, however, that the parties have made a due showing in the form and manner prescribed that such relationships will not adversely affect the public interest, provided that approval thereof shall be effective only so long as the activities of Delivery and Transfer are limited to the State of Alaska and the State of Washington, respectively.[8]

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.13, it is found that the foregoing control relationships should be approved under section 408(b) of the Act, without a hearing, and that the interlocking relationships should be approved under section 409.

Accordingly, it is ordered,

1. That the common control of Jensen, Jensen, Inc., Delivery and Transfer by Norman G. Jensen and Charlotte A. Jensen be and it hereby is approved;

2. That, subject to the provisions of Part 251 of the Board's economic regulations as now in effect or as hereafter amended, the interlocking relationships existing by reason of the holding by Norman G. Jensen and Charlotte A. Jensen of the positions set forth above be and they hereby are approved; and

3. That the approvals granted herein shall be effective only so long as the operation of motor vehicles by Delivery and Transfer is limited to the State of Alaska and the State of Washington, respectively.

Persons entitled to petition the Board for review of this Order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within five days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

J. W. ROSENTHAL,
Chief, Routes and Agreements Division, Bureau of Economic Regulation.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 64-8704; Filed, Aug. 26, 1964; 8:49 a.m.]

[Docket 14800]

LORETZ & CO. ET AL.

Application for Approval of Control and Interlocking Relationships

Application of Loretz & Company, Schenkers International Forwarders, Inc., Cal-Air Forwarders, Inc., et al., for approval of control and interlocking relationships pursuant to sections 408 and 409 of the Federal Aviation Act of 1958, as amended, Docket 14800.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) that the undersigned intends to issue the following order under delegated authority. Interested parties are hereby afforded a period of fifteen days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., August 24, 1964.

J. W. ROSENTHAL,
Chief, Routes and Agreements Division, Bureau of Economic Regulation.

ORDER APPROVING CONTROL AND INTERLOCKING RELATIONSHIPS

By joint application filed October 9, 1963, as amended May 13, 1964, Loretz & Company, an International Air Transport Association (IATA) cargo sales agent and international surface (ocean) freight forwarder, and Schenkers International Forwarders, Inc. (Schenkers), also an IATA agent and international surface (ocean) freight forwarder, seek approval pursuant to section 408 of the Federal Aviation Act of 1958, as amended, (the Act) of their acquisition of control of Cal-Air Forwarders, Inc. (Cal-Air), an international air freight forwarder. Approval also is requested pursuant to section 409 of the Act of interlocking relationships involving T.A.L. Loretz, Brian A. Houston, R. H. Larson, and Joseph Weinberg (individual applicants). The specific relationships involving these persons are set forth in the Appendix.[1]

By Order E-18579, dated July 12, 1962, in Docket 12473, the Board previously approved pursuant to section 408 of the Act, the common control of Cal-Air and certain other companies by Sidney N. Epstein and T.A.L. Loretz each of whom held 50 percent of the stock of Cal Air. Certain interlocking relationships involving these two individuals also were approved pursuant to section 409.

The instant application reveals that Mr. Loretz now owns all of the capital stock (20,000 shares) of Cal-Air; that this stock will be sold to Loretz & Company,[2] and that, subject to the approval of the Corporation Commissioner of the State of California, Cal-Air will issue an additional 10,000 shares of capital stock for cash to Schenkers. Thus, Cal-Air will be owned 66⅔ percent by Loretz & Company and 33⅓ by Schenkers.

According to the applicants, 49 percent of the stock of Schenkers is owned by R. G. Hobelman & Co., Inc. which is an IATA agent and an international surface (ocean) freight forwarder, and a like amount by Schenkers & Co., G.m.b.H., a West German corporation. Schenkers, in turn, owns a 49 percent stock interest in Schenkers International, Inc., Chicago, which is also an international surface (ocean) freight forwarder. The applicants state that pursuant to an agency management agreement,[3] executed in August 1963, Schenkers serves as managing agent for Cal-Air in the United States territory east of the Mississippi. Under this arrangement, in addition to normal agency services, Schenkers will furnish airport office personnel, space and facilities to Cal-Air.[4] Because of this relationship, according to the applicants, it was deemed desirable by the Schenkers management that it should participate in the ownership and management of Cal-Air.

No comments relative to the application or requests for a hearing have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

Upon consideration of the application, we have concluded that Loretz & Company and Schenkers are both, through their IATA cargo sales agency activities, persons engaged in a phase of aeronautics and that Loretz & Company's proposed control of Cal-Air is subject to section 408 of the Act. To the extent that Schenkers, through its stock ownership and managing agency relationships, the scope of which is not clear from the application, may directly or indirectly control Cal-Air, we will approve such control relationships as well as Loretz & Company's control of Cal-Air.

However, it has been concluded further that such relationships do not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly and do not restrain competition. Furthermore, no person disclosing a substantial interest in this proceeding is currently requesting a hearing and we find that the public interest does not require a hearing. The control relationships are similar to others which have been approved by the Board and essentially do not present any new substantive issues.[5] It therefore ap-

[1] To the extent applicable, it has been decided not to enforce the doctrine expressed in Sherman Control and Interlocking Relationships, 15 CAB 876 (1952) and to consider the application on its merits.

[2] Mr. Loretz presently owns 45 percent of the outstanding stock of Loretz & Company.

[3] Agreement CAB 17363.

[4] A similar relationship between Cal-Air and Loretz & Company for that area west of the Mississippi has existed since December 1963 (Agreement CAB 17625, approved by Order E-20526 dated Mar. 2, 1964). The agreements both may be canceled at any time with or without cause by either party upon written notice to the other.

[5] See, for example, Cal-Air Forwarders, Inc. (Formerly National Air Freight, Inc., d/b/a Aero International), et al. Docket 12473, Order E-18579, July 12, 1962.

[6] See WTC Air Freight, et al., Order E-20713, Apr. 16, 1964, Docket 15095.

[7] It has been decided not to enforce the doctrine expressed in Sherman Control and Interlocking Relationships, 15 CAB 876 (1952) and to consider the application on its merits.

[8] See footnote 7, supra.

pears that approval of the control relationships would not be inconsistent with the public interest.

We also find that interlocking relationships within the scope of section 409 of the Act will result from the holding by Messrs. Loretz, Houston, Larson and Weinberg of the positions described in the Appendix hereto. However, we have concluded that a due showing has been made in the form and manner prescribed by Part 251 of the economic regulations that the public interest will not be adversely affected thereby and that the interlocking relationships should be approved under section 409.

Pursuant to authority duly delegated by the Board's Regulations, 14 CFR 385.13, it is found that the foregoing control relationships should be approved under section 408 (b) of the Act, without a hearing, and that the interlocking relationships should be approved under section 409.

Accordingly, it is ordered,

1. That the proposed control relationships resulting from the control by Loretz & Company and Schenkers of Cal-Air be and they hereby are approved;

2. That, subject to the provisions of Part 251 of the Board's economic regulations, as now in effect or as hereafter amended, the interlocking relationships resulting from the holding by Messrs. Loretz, Houston, Larson and Weinberg of the positions set forth in the appendix hereto,[6] be and they hereby are approved; and

3. That, except to the extent granted herein, the application be and it hereby is dismissed.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within five days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

J. W. ROSENTHAL,
Chief, Routes and Agreements Division, Bureau of Economic Regulations.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 64-8705; Filed, Aug. 26, 1964; 8:49 a.m.]

[Docket 15458]

STARON FLIGHT LTD.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on September 15, 1964, at 10:00 a.m. e.d.s.t., in Room 701, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., August 24, 1964.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 64-8706; Filed, Aug. 26, 1964; 8:49 a.m.]

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[6] Filed as part of the original document.

DEPARTMENT OF COMMERCE

National Bureau of Standards

TIME SIGNALS BROADCAST BY CERTAIN NATIONAL BUREAU OF STANDARDS RADIO STATIONS

Notice of Change

Notice is hereby given that time signals broadcast by radio stations WWV, Greenbelt, Maryland; WWVH, Maui, Hawaii; and WWVB, Fort Collins, Colorado, will be retarded 100 milliseconds at 0000 U.T., 1 September 1964.

This change is in accordance with agreements made with the United States Naval Observatory.

I. C. SCHOONOVER,
Acting Director.

[F.R. Doc. 64-8672; Filed, Aug. 26, 1964; 8:46 a.m.]

FEDERAL AVIATION AGENCY

[OE Docket No. 64-WE-2]

BRYANT BAKER

Determination of No Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal for aeronautical comment and has conducted a study (WE-OE-1423) to determine its effect upon the safe and efficient utilization of the navigable airspace.

Mr. Bryant Baker, Denver, Colorado, proposes to construct a concrete and steel exhibition tower near Larkspur, Colorado, at latitude 39°14'05" N., longitude 104°54'10" W. The base diameter would be 80 feet and rising 1500 feet to a diameter of 60 feet. At this point, it expands to a diameter of 120 feet then rises an additional 100 feet. At the 1600-foot level, the structure will be topped by a 300-foot communication tower. The overall height of the completed structure would be 8900 feet above mean sea level (1900 feet above ground).

The structure would exceed the standards for determining hazards to air navigation in § 77.23(a)(2) of the Federal Aviation Regulations by 1700 feet since it would be more than 200 feet above ground within the boundaries of VOR Federal airway No. 95.

The aeronautical study disclosed that the structure would require an increase in radar vectoring altitudes as follows:

A. For the Denver terminal radar:

1. From 9000 feet to 9900 feet when aircraft are vectored within three miles of the site.

2. From 9000 feet to 9400 feet when aircraft are vectored within five miles and not less than three miles from the site.

B. For the Colorado Springs terminal radar:

1. From 8900 feet to 9400 feet when aircraft are vectored within five miles but not less than three miles from the site.

The study further disclosed that the area of these increases is just within the outer limits of radar coverage of both systems. Radar vectoring in this location is normally conducted with aircraft at or above 10,000 feet.

The structure would be located in proximity to a prominent highway with paralleling railroad tracks which would normally be considered as providing a well-defined route for a VFR flyway. However, the study disclosed that it was little used in this case. The terrain along the highway and tracks in the area of the structure, though in a valley, is more rugged and because of westerly winds over adjacent mountain ridges is inclined to have more severe turbulence than the area a few miles to the east where the terrain gradually becomes more level. During periods of marginal weather and low visibility, pilots, flying between Colorado Springs and Denver, shun the rugged terrain of the highway area for the more even terrain to the east.

Based upon the aeronautical study, it is the finding of the Agency that the proposed structure would have no substantial adverse effect upon aeronautical operations, procedures or minimum flight altitudes.

Therefore, pursuant to the authority delegated to me by the Administrator (§ 77.37 [New]), it is found that the proposed structure would have no substantial adverse effect upon the safe and efficient utilization of navigable airspace and it is hereby determined that the proposed structure would not be a hazard to air navigation provided that it is obstruction marked and lighted in the manner recommended by the Agency.

This determination is effective and will become final 30 days after the date of issuance unless an appeal is filed under § 77.39 [New] (27 F.R. 10352). If the appeal is denied, the determination will then become final as of the date of the denial or 30 days after the issuance of the determination, whichever is later. Unless otherwise revised or terminated, a final determination hereunder will expire 18 months after its effective date or upon earlier abandonment of the construction proposal (§ 77.41 [New]).

Issued in Washington, D.C., on August 14, 1964.

JOSEPH VIVARI,
Acting Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 64-8670; Filed, Aug. 26, 1964; 8:45 a.m.]

[OE Docket No. 64-SO-14]

PLATINUM COAST BROADCASTERS, INC.

Determination of Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal for aeronautical comment and has conducted an aeronautical study (SO-OE-4283) to determine its effect upon the safe and efficient utilization of the navigable airspace.

Platinum Coast Broadcasters, Inc., Gainesville, Florida, proposes to construct a guyed television antenna tower at latitude 29°27'08" N., longitude 82°06'26" W., near Island Grove, Florida. The overall height of the structure would be 1,169 feet above mean sea level (1,099 feet above ground).

The structure would exceed the standards for determining hazards to air navigation as defined in § 77.23(a) (1) of the Federal Aviation Regulations by 599 feet, since it would be more than 500 feet above ground at the site of construction.

The aeronautical study disclosed that the structure would be located approximately 18 miles southeast of the Gainesville, Florida, VOR, and would require an increase from 1,400 feet to 2,200 feet in the minimum sector altitude in the southeast quadrant within 25 nautical miles of the Gainesville VOR, for standard instrument approach procedure AL-973-VOR-1 to the Gainesville Municipal Airport. This change could be made without having a substantial adverse effect upon the instrument flight rules operations at the airport.

The study further disclosed that the structure would be located in an area of extensive high speed low level military training activity which is conducted between Orange Lake on the west and restricted areas R-2907, Lake George, Florida, and R-2910, Pinecastle, Florida, to the southeast. The restricted areas are used by the Navy for day and night training in bombing, rocketry and other similar tactical operations. The proposed structure would lie within the low altitude high speed run-in corridors to both of the Lake George targets and the Pinecastle live drop impact range. Aircraft involved use an island in Orange Lake for visual reference and from this point proceed along established routes into the restricted areas at 200 feet to 500 feet above ground level and at speeds in excess of 300 knots. The centerline of these routes lies approximately one to three miles from the site of the proposed tower. This would place aircraft in proximity of the proposed structure at a time when pilots are preoccupied with the final phase of their mission. The route into R-2907 alone is used on an average of ten times daily.

The possibility of altering these routes to accommodate the structure was also explored. It was found that the type of operation conducted requires that the routes into the restricted areas be planned to avoid populated areas and as much as possible other areas of aeronautical activity; therefore, the routes available for the final run-in to the restricted areas are already severely limited.

Based upon the aeronautical study, it is the finding of the Agency that the proposed structure would have a substantial adverse effect upon the Navy's utilization of Restricted Area R-2907 and R-2910.

Therefore, pursuant to the authority delegated to me by the Administrator (§ 77.37 [New]), it is found that the proposed structure would have a substantial adverse effect upon the safe and efficient utilization of navigable airspace; and it is hereby determined that the proposed structure would be a hazard to air navigation.

This determination is effective and will become final 30 days after the date of issuance unless an appeal is filed under § 77.39 [New] (27 F.R. 10352). If the appeal is denied, the determination will then become final as of the date of the denial or 30 days after the issuance of the determination, whichever is later.

Issued in Washington, D.C., on August 14, 1964.

JOSEPH VIVARI,
Acting Chief,
Obstruction Evaluation Branch.

[F.R. Doc. 64-8671; Filed, Aug. 26, 1964; 8:45 a.m.]

FEDERAL POWER COMMISSION

[Project No. 815]

LANDS WITHDRAWN

Vacation of Withdrawal

AUGUST 21, 1964.

The United States Forest Service has requested that the power withdrawals affecting the following described lands of the United States be vacated.

CALIFORNIA

T. 16 N., R. 17 E., M.D.M.,
Sec. 12, NE¼SE¼; [1]
Sec. 28, lot 1.

The lands are located within the Tahoe National Forest and have been selected in connection with proposed forest exchanges. The Forest Service advises that by the exchange involving the affected portions in section 12, the lands would become available to the proponent for private development for recreational purposes, and by the exchange involving the affected portions in section 28, the Forest Service would acquire other urgently needed waterfront lands on Lake Tahoe, California, in connection with the Camp Richardson land exchange. The Camp Richardson exchange involves 270 parties now occupying National Forest land under permits. The 270 permittees would receive title to permitted lands upon completion of the exchange.

Portions of lot 1 of section 28 were withdrawn pursuant to the filing on December 21, 1927 of an application for license under the Federal Power Act by the predecessor of Sierra Pacific Power Company (Sierra) for transmission line Project No. 815. Portions of lot 1 of section 28 were withdrawn pursuant to the filing on October 15, 1936 for amendment of the license for Project No. 815, then held by Sierra, and portions of the NE¼SE¼ of section 12 were withdrawn pursuant to the filing by Sierra on June 20, 1940 of a further application of the license. However, by order issued March 10, 1942, the Commission dismissed the application for amendment upon a finding that the transmission lines licensed as Project No. 815 were not primary lines within the meaning of section 3(11) of the Federal Power Act and were not, therefore, subject to the licensing authority of the Commission. By its order of May 24, 1951, the Commission accepted surrender of the license for Project No. 815.

In the circumstances recited above, vacation of the aforesaid withdrawal with respect to the subject lands would be appropriate.

The Commission orders: The power withdrawals insofar as they affect the subject lands (approximately 2.28 acres), pursuant to the applications for Project No. 815 are hereby vacated.

By the Commission.

[SEAL] GORDON M. GRANT,
Acting Secretary.

[F.R. Doc. 64-8677; Filed, Aug. 26, 1964; 8:46 a.m.]

[1] Inadvertently described in request as NE¼NE¼.

[Project No. 2481]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Notice of Application for License

AUGUST 20, 1964.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Public Service Company of New Hampshire (correspondence to: A. R. Shiller, President, and Ralph H. Wood, Counsel, Public Service Company of New Hampshire, 1087 Elm Street, Manchester, New Hampshire, 03105, and Franklin Hollis, General Counsel, Sulloway Hollis Godfrey & Soden, 9 Capitol Street, Concord, New Hampshire, 03302) for constructed Project No. 2481, known as the Swan Falls Hydroelectric Plant, located on the Saco River, Town of Freyeburg, Oxford County, Maine, and Town of Conway, Carroll County, New Hampshire.

The project consists of: (1) A dam with timber crib section, a reinforced spillway section and a concrete spillway section; (2) a reinforced concrete spillway forming one side of the intake canal with two 7 foot by 12 foot wooden waste gates; and (3) a concrete and brick powerhouse containing two 475 horsepower turbines each connected to a 400 kva Westinghouse generator. The total installed capacity of the two units is 640 kilowatts.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accordance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10.) The last day upon which protests or petitions may be filed is October 5, 1964. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 64-8678; Filed, Aug. 26, 1964; 8:46 a.m.]

HOUSING AND HOME FINANCE AGENCY

Office of the Administrator

URBAN RENEWAL COMMISSIONER; HHFA REGIONAL ADMINISTRATOR, REGION VI (SAN FRANCISCO)

Delegation of Authority With Respect to Grants for Urban Renewal Projects Under Alaska Omnibus Act, as Amended

1. The Urban Renewal Commissioner is hereby authorized to execute the powers and functions vested in the Housing and Home Finance Administrator under section 53 of the Alaska Omnibus Act (Public Law 86–70, approved 6/25/1959), as amended under section 4 of the 1964 Amendments to the Alaska Omnibus Act (Public Law 88–451, approved 8/19/1964), with respect to grants for urban renewal projects in Alaska, including open land projects, under section 111 of the Housing Act of 1949 (42 U.S.C. 1462).

2. The HHFA Regional Administrator, Region VI (San Francisco), is hereby authorized to make the determinations required under section 53 of the Alaska Omnibus Act, as amended, that:

a. The proposed urban renewal project will aid the community in which the project is located in reconstruction and redevelopment made necessary by the 1964 earthquake and subsequent seismic waves.

b. A major portion of the project area has either been rendered unusable as a result of the 1964 earthquake and subsequent seismic waves or is needed in order adequately to provide new locations for persons, businesses, and facilities displaced by the earthquake.

(62 Stat. 1283 (1948), as amended by 64 Stat. 80 (1950), 12 U.S.C. 1701c)

Effective as of the 21st day of August 1964.

ROBERT C. WEAVER,
Housing and Home Finance Administrator.

[F.R. Doc. 64–8680; Filed, Aug. 26, 1964; 8:46 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 70–4227]

DELAWARE POWER & LIGHT CO.

Notice of Proposed Issuance and Sale of First Mortgage and Collateral Trust Bonds at Competitive Bidding

AUGUST 21, 1964.

Notice is hereby given that Delaware Power & Light Company ("Delaware"), 600 Market Street, Wilmington, Delaware, 19899, a registered holding company and a public-utility company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6 and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, on file at the office of the Commission, for a statement of the transaction therein proposed which is summarized below.

Delaware proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50 under the Act, $25,000,000 principal amount of its First Mortgage and Collateral Trust Bonds, ____ percent Series due 1994. The interest rate of the new bonds (which will be in multiple of ⅛ of 1 percent) and the price, exclusive of accrued interest, to be paid to Delaware (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The new bonds will be issued under the Mortgage and Deed of Trust dated as of October 1, 1943, between Delaware and Chemical Bank New York Trust Company, successor Trustee, as heretofore supplemented and as to be further supplemented by a Thirtieth Supplemental Indenture to be dated as of October 1, 1964.

Delaware will apply the proceeds from the sale of the new bonds toward the system's construction program and the payment of short-term notes due banks, issued for construction purposes prior to such sale. Delaware's outstanding short-term notes aggregated $2,475,000 on July 29, 1964. The cost of the system's construction program for 1964 and 1965 is estimated to aggregate $51,250,000.

The issuance and sale of the new bonds has been authorized by The Public Service Commission of Delaware. A statement of the fees and expenses to be incurred by the company in connection with the proposed transaction is to be filed by amendment.

Notice is further given that any interested person may, not later than September 14, 1964, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed contemporaneously with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 64–8675; Filed, Aug. 26, 1964; 8:46 a.m.]

[File No. 812–1712]

INVESTORS MUTUAL, INC. AND INVESTORS STOCK FUND, INC.

Notice of Filing of Application for Order Exempting Transactions Between Affiliated Persons

AUGUST 21, 1964.

Notice is hereby given that Investors Mutual, Inc. ("Mutual") and Investors Stock Fund, Inc. ("Stock"), 1000 Roanoke Building, Minneapolis, Minnesota, 55402, each of which is a registered open-end investment company, have filed a joint application pursuant to section 17(b) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting from the provisions of section 17(a) of the Act the proposed sale by Stock to Mutual, and the proposed purchase by Mutual from Stock, of 100,000 shares of common stock of Denver & Rio Grande Western Railroad Company ("Railroad"). All interested persons are referred to the application on file with the Commission for a complete statement of applicants' representations, which are summarized below.

Mutual owns 175,000 shares (2.73 percent) of Railroad's common stock which it acquired during the period 1955–1960 at an average cost of $15.3995 per share. Stock owns 100,000 shares (1.56 percent) of Railroad's common stock which it acquired during the period 1954–1959 at an average cost of $12.6059 per share.

Railroad's common stock is traded on the New York Stock Exchange. During the period from January 1, 1964 through August 17, 1964, the market price for such stock ranged from a high of 23 to a low of 19⅞. The closing price on August 17, 1964 was 22⅛. It is proposed that Mutual purchase from Stock the 100,000 shares of Railroad's common stock at a price equal to the average of the closing prices of such stock on the New York Stock Exchange for the last five sessions prior to the date upon which the instant application is granted, provided that such average price shall be not less than $18 per share and not more than $24 per share. No sales commission or fee of any kind would be paid or received by either party, except that Stock would pay the transfer fee which is customarily paid by the seller.

The application states that the investment objectives of Mutual are (1) to provide a reasonable return on its shareholders' investments; (2) to preserve the value of these investments; and (3) to aim at long-term appreciation possibilities on an investment rather than a speculative basis. To attain these objectives the management of Mutual strives to maintain a balanced portfolio. At June 30, 1964, Mutual's investments, taken at market value, were distributed as follows: Short term notes 4.13 percent,

bonds 22.78 percent, preferred stocks 10.76 percent, and common stocks 62.33 percent. While Mutual's investment policy does not preclude the purchase, sale or holding of securities for capital gain purposes, safety of investment being equal, Mutual would generally prefer a security providing liberal diivdend income and having reasonable prospects for capital appreciation. The dividend yield on Railroad's common stock (4.5 percent at the August 17, 1964 closing market price), coupled with the prospects for modest long-term capital appreciation which Mutual's management expect from the stock, make it an attractive investment for Mutual.

The application further states that Stocks' primary objectives are (1) capital appreciation on an investment basis over a long term; and (2) a reasonable income consistent with the investment policies of Stock. The market price potential with respect to Railroad's common stock has changed since its original purchase by Stock so that now, in the light of Stock's relatively greater emphasis on appreciation potential than is the case in a balanced fund such as Mutual, the management of Stock believes that there are other issues available with lower current yield whose prospects for capital gain are brighter than those of Railroad at its current price level. In management's judgment the greater prospects for capital gains present in such other stocks warrant the possible sacrifice of some dividend income and would be more consistent with investment objectives.

The boards of directors of Mutual and Stock consist of twelve and eleven persons, respectively. Eight of the directors of Mutual are also directors of Stock and the two companies have common officers. Investors Diversified Services, Inc. serves as the investment adviser and principal underwriter for both Mutual and Stock. In view of such relationships, applicants have filed the present application, pursuant to section 17(b) of the Act, requesting an exemption from the provisions of section 17(a).

Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company, or an affiliated person of such person, from selling to or purchasing from such registered investment company any security or other property, subject to certain exceptions, unless the Commission upon application pursuant to section 17(b) grants an exemption from the provisions of section 17(a), after finding that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transaction is consistent with the policy of each registered investment company concerned and is consistent with the general purposes of the Act.

Notice is further given that any interested person may not later than September 10, 1964, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C., 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at the address set forth above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) should be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in such application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 64-8676; Filed, Aug. 26, 1964; 8:46 a.m.]

TARIFF COMMISSION

[TC Publication 134; TEA-F-3]

DANAHO REFINING CO.

Petition for Adjustment Assistance

AUGUST 21, 1964.

Tariff Commission reports to the President on petition for adjustment assistance by Danaho Refining Co.

TO THE PRESIDENT: In accordance with section 301(f)(1) of the Trade Expansion Act of 1962 (76 Stat. 885), the U.S. Tariff Commission herein reports the result of its investigation No. TEA-F-3. This investigation was conducted under section 301(c)(1) of that act, in response to a petition from the Danaho Refining Co., Houston, Tex., for a determination of its eligibility to apply for adjustment assistance. The petitioner is a refiner of crude petroleum and natural gas condensate, producing from these raw materials such finished petroleum products as gasoline, jet fuel, diesel oil, and fuel oils.[1] The investigation was instituted to determine whether, as a result in major part of concessions granted under trade agreements, crude petroleum, which is one of the raw materials used by this company, is being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the petitioner.

The petition was filed with the Commission on June 24, 1964, and the Commission instituted the investigation on June 29, 1964. Public notice of the receipt of the petition and of the institution of the investigation was given by publication of the notice in the FEDERAL REGISTER (29 F.R. 8449; July 3, 1964). Neither the petitioner nor any other party requested a public hearing, and none was held.

[1] As noted hereinafter, the Danaho refinery, which is located at Pettus, Tex., discontinued production in November 1963.

In this investigation the Commission obtained information from its files, from the Danaho Refining Co., from other Government agencies, through fieldwork by members of the Commission's staff, and by correspondence and interviews with other producers in the industry.

FINDING OF THE COMMISSION

On the basis of its investigation the Commission unanimously finds that crude petroleum is not, as a result in major part of concessions granted under trade agreements, being imported in such increased quantities as to cause, or threaten to cause, serious injury to the Danaho Refining Co.

CONSIDERATIONS IN SUPPORT OF THE FOREGOING FINDING

Crude petroleum is a natural mineral oil consisting of various mixtures of hydrocarbons and associated impurities. The product is in demand only as a raw material for the production of a variety of refined petroleum products, among the most important of which are gasoline, residual and distillate fuel oil, kerosene, and lubricating oil.

The Danaho refinery, before discontinuing production in November 1963, was engaged principally in the production of motor (automotive) gasoline, aviation gasoline, military jet fuel, and diesel fuel. The petitioner contends that it was forced to discontinue production chiefly because crude petroleum is being imported in such increased quantities as to depress market prices for finished petroleum products below levels at which it could operate profitably.

Under the Tariff Schedules of the United States, effective August 31, 1963, imports of crude petroleum are dutiable at the rate of 5¼ cents per barrel of 42 gallons if testing under 25 degrees A.P.I.—item 475.05, or at 10½ cents per barrel if testing 25 degrees A.P.I. or more—item 475.10. These rates reflect concessions granted to Venezuela in a trade agreement that became effective on October 11, 1952.

Imports of crude petroleum were free of duty under paragraph 1733 of the Tariff Act of 1930, but became subject to an import tax of 21 cents per barrel under section 3422 of the Internal Revenue Code, effective June 21, 1932.[2] This import tax was also applicable to imports of topped crude petroleum and fuel oils derived from petroleum. Pursuant to a trade agreement with Venezuela that became effective December 16, 1939, the import tax on crude petroleum, topped crude, and fuel oils was reduced to 10½ cents per barrel for imports not in excess of 5 percent of the total quantity of crude petroleum processed in refineries in continental United States during the preceding calendar year; imports in excess of the tariff quota were subject to the statutory rate of 21 cents per barrel.

Pursuant to a trade agreement with Mexico, effective January 30, 1943, the tariff quota was removed, and all imports of crude petroleum, topped crude, and fuel oils were made subject to the import tax of 10½ cents per barrel. The trade agreement with Mexico was terminated at the close of December 31, 1950, at which time the tariff quota and tax provided for in the original Venezuelan trade agreement again became effective. On October 11, 1952, pursuant to a supplementary trade agreement with Venezuela, the import tax on crude petroleum, topped crude, and fuel oils testing under 25 degrees A.P.I. was reduced to 5¼ cents a barrel. Imports

[2] This tax, when imposed under the Internal Revenue Code, was legally no different from an ordinary tariff duty imposed under the Tariff Act of 1930. When the revised Tariff Schedules of the United States were adopted, this tax, as modified by trade-agreement concessions, was converted to eqivalent tariff duties.

of crude oil, topped crude, and fuel oils testing 25 degrees A.P.I. or more remained taxable at the previous rate of 10½ cents per barrel, but without any limitation on the quantity imported at that rate.

U.S. imports of crude petroleum since March 10, 1959, have been subject to certain import quotas that were proclaimed by the President pursuant to section 2(b) (the national security clause) of the Trade Agreements Extension Act of July 1, 1954, as amended. The import quotas imposed for national security purposes and designed and administered to achieve national security objectives, have not prevented total imports of crude petroleum from rising. Thus, the Commission has determined that crude petroleum is "being imported in increased quantities" within the meaning of section 301 of the Trade Expansion Act of 1962.

The increase in imports of crude petroleum is primarily due to: The wide price disparity between domestic and foreign crude petroleum (a disparity several times greater than the preconcession duty applicable to such imports); the rising demand for crude petroleum in the United States; and the progressive decline in the ad valorem equivalent of the specific tax rate since June 1932, when the import tax was first imposed.

The disparity between the average foreign value of crude petroleum and the average domestic price at the well varied between 73 cents and 77 cents per barrel during 1959–63. The annual U.S. consumption (apparent) rose without interruption in that period by about 9 percent.

From 1933 (the first full year in which the import tax was in effect) to 1963, the average annual foreign unit value of imported crude petroleum rose almost without interruption from 56 cents to $2.25 per barrel. In the same period the average ad valorem equivalent of the specific rate applicable to imports declined from about 38 percent to about 4 percent (a weighted average). If the full preconcession rate had been in effect during the aforementioned period, the ad valorem equivalent would have declined from 38 percent in 1933 to about 9 percent in 1963. Thus, only a small part of the total decline in the aforementioned ad valorem equivalent can be attributed to the trade-agreement concessions.

The evidence indicates that the difficulties experienced by the petitioning firm are attributable to factors wholly or almost wholly unrelated to the trade-agreement concessions on crude petroleum. Among the factors contributing to the problems of this concern was the development in the mid-1950's of a large natural gas field—the Burnell-North Pettus field—adjacent to the petitioner's refinery at Pettus, Tex., which enabled competitors of the Danaho Refining Co. to produce automotive gasoline at low cost and market it at prices at which the petitioner was unable to compete.

In a brief filed in the Court of Civil Appeals, Tenth Supreme Judicial District, Waco, Tex., the Danaho Refining Co., presenting an appeal from an adverse decision in an antitrust action filed before the 61st Judicial District Court, Hannes County, Tex., states:

(1) The decline in Danaho's gasoline sales after 1957 was caused primarily by the competition of material moving from [the] Burnell Plant * * *

(2) The marketing practices of [the operators of the Burnell facility] since 1957 had the effect of depressing wholesale prices in the relevant marketing area from ¾ cent to 1 cent per gallon * * *

(3) The price cutting engaged in by [the operators of the Burnell plant] affected Danaho's ability to obtain charge stocks for its refining operation because, with reduced profits, Danaho did not have sufficient capital to purchase crude stocks * * *

In addition to the development of the natural gas field discussed above, there were other factors—likewise unrelated to the trade-agreement concessions applicable to imports of crude petroleum—that led to the decision of the Danaho refinery to discontinue production in 1963. Thus, even if the Commission had found that the increased imports of crude petroleum were attributable in major part to trade-agreement concessions, it could not have found that such increased imports contributed significantly, if at all, to the difficulties confronting the Danaho Refining Co.

Respectfully submitted,

BEN DORFMAN, *Chairman.*
JOSEPH E. TALBOT, *Commissioner.*
GLENN W. SUTTON, *Commissioner.*
JAMES W. CULLITON, *Commissioner.*
DAN H. FENN, Jr. *Commissioner.*

[SEAL] DONN N. BENT, *Secretary.*

[F.R. Doc. 64–8752; Filed, Aug. 26, 1964; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 24, 1964.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 39218: *Liquid caustic soda to Coosa Pines, Ala.* Filed by O. W. South, Jr., agent (No. A4555), for interested rail carriers. Rates on liquid caustic soda, in tank carloads, from Memphis, Tenn., to Coosa Pines, Ala.

Grounds for relief: Market competition.

Tariff: Supplement 188 to Southern Freight Association, agent, tariff I.C.C. S–116.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 64–8691; Filed, Aug. 26, 1964; 8:48 a.m.]

DESCRIPTION OF THE CENTRAL AND FIELD ORGANIZATION

Miscellaneous Amendments

JULY 31, 1964.

Pursuant to the provisions of section 3(a) of the Administrative Procedure Act, the following changes in *Description of the Central and Field Offices of the Interstate Commerce Commission,* issue of January 1, 1964 (29 F.R. 3683), are published.

Under section 3, *Bureau and Other Organization:*

In Item (j) *Bureau of Operating Rights,* the second sentence is revised by deleting "Operating Rights Review Board" and substituting "Operating Rights Review Boards Nos. 1, 2 and 3", and paragraph (8) is revised to read as follows:

(8) Operating Rights Review Boards Nos. 1, 2 and 3. See Item 7.11 of the Organization Minutes as amended for functions and duties.

Item (n) *Bureau of Transport Economics and Statistics* is revised to read as follows:

(n) *Bureau of Transport Economics and Statistics.* Performs economic, statistical and related analytical work, concerning transportation, necessary to the Commission in its performance of its functions to foster sound economic conditions consistent with the National Transportation Policy. In performing this work, the Bureau advises the Commission on economic and statistical matters and develops and prepares for publication data concerning such matters as finances, physical characteristics, operations and traffic consist of the various carriers, as well as statistical and economic evaluations of the effects of the Commission's regulatory policies on carriers, shippers, consumers, and the national economy and the effects of developments pertaining to the latter on the Commission's responsibilities.

(1) *Section of Reports.* Prepares in coordination with other bureaus and offices the statistical and accounting reporting requirements of carriers subject to the I.C. Act, Accidents Reports Act, and Clayton Antitrust Act; sets forth policies and practices to be followed in filing the annual and periodic reports; examines and verifies carrier reports to determine accuracy, completeness and compliance with reporting requirements and conducts correspondence with carriers regarding same; initiates action leading to institution of appropriate proceedings against carriers failing to observe reporting requirements; compiles and prepares for publication, transportation statistics based on reports submitted by the carriers covering such matters as finances, operations, and railroad accidents; prepares special tabulations and analyses based on reports for the Commission, Congress, and other governmental agencies; and advise industry, Government agencies, and others regarding the scope and content of the reports and related matters.

(2) *Mathematics and Statistics Staff.* Technical authority and responsibility for statistical research, projects and statistical applications of the Bureau; develops, designs and assists in implementing probability sample studies and provides advisory services in sampling and other statistical problems; develops, plans, and implements programs of statistical quality control; develops programs for reviewing and improving statiscal quality of data at the source; develops and applies operations research techniques.

(3) *Section of Data Processing.* Coordinates and performs automatic data processing operations and related services

for the Bureau and for other Commission bureaus and offices as required.

(4) *Section of Research.* Plans, develops, conducts and reports on economic research studies of transportation problems and developments affecting the several modes of transportation of the national transportation system to assist the Commission in the formulation of policy and in the performance of its regulatory and administrative functions; advises the Commission on the national economy as it affects or is affected by transportation; provides analytical support in proceedings matters; participates in proceedings before the Commission by providing economic and related information and expert testimony; supplies information and special reports on economic matters to meet specific current needs of the Commission, including analyses of carriers' operations and traffic characteristics.

The list of *Interstate Commerce Commission Field Offices* is revised to read as shown in attached list.

[SEAL] HAROLD D. McCOY,
Secretary.

INTERSTATE COMMERCE COMMISSION FIELD OFFICES

ICC regions	Location of offices	Bureaus and offices represented [1]
1	Boston, Mass.; Regional Headquarters: 30 Federal St.	A, I&C, MC, OMD, S&S.
	Lebanon, N.H.	MC.
	Portland, Maine	MC.
	Providence, R.I.	MC.
	Springfield, Mass.	MC.
	New York, N.Y.[2]	A, I&C, MC, S&S, WC.
	Albany, N.Y.	A, MC, S&S.
	Binghamton, N.Y.	MC.
	Buffalo, N.Y.	MC, S&S.
	Hartford, Conn.	MC.
	Newark, N.J.	A, MC, S&S.
	Syracuse, N.Y.	MC, S&S.
	Trenton, N.J.	MC.
2	Philadelphia, Pa.; Regional Headquarters: 900 Custom House, 2d and Chestnut Sts.	A, I&C, MC, OMD, S&S.
	Baltimore, Md.	MC, S&S.
	Harrisburg, Pa.	MC.
	Norfolk, Va.	S&S.
	Richmond, Va.	A, I&C, MC, S&S.
	Roanoke, Va.	MC, S&S.
	Salisbury, Md.	MC.
	Scranton, Pa.	MC.
	Washington, D.C.	A, MC, S&S.
	Columbus, Ohio	I&C, MC, S&S.
	Charleston, W. Va.	MC, S&S.
	Cincinnati, Ohio	MC, S&S.
	Cleveland, Ohio	A, MC, S&S.
	Pittsburgh, Pa.	A, I&C, MC, S&S.
	Toledo, Ohio	MC, S&S.
	Wheeling, W. Va.	MC.
	Youngstown, Ohio	S&S.
3	Atlanta, Ga.; Regional Headquarters: 680 West Peachtree St. NW.	A, I&C, MC, S&S, OMD.
	Birmingham, Ala.	MC, S&S.
	Charlotte, N.C.	A, MC, S&S.
	Columbia, S.C.	MC.
	Miami, Fla.	MC.
	Jacksonville, Fla.	A, MC, S&S.
	Mobile, Ala.	S&S.
	Raleigh, N.C.	MC.
	Tampa, Fla.	S&S.

Footnotes at end of table.

INTERSTATE COMMERCE COMMISSION FIELD OFFICES—Continued

ICC regions	Location of offices	Bureaus and offices represented [1]
3	Nashville, Tenn.	A, I&C, MC, S&S.
	Jackson, Miss.	MC.
	Lexington, Ky.	MC.
	Louisville, Ky.	MC, S&S.
	Memphis, Tenn.	I&C, MC, S&S.
4	Chicago, Ill.; Regional Headquarters: 1086 U.S. Courthouse and Federal Office Bldg., 219 South Dearborn St.	A, I&C, MC, S&S, WC, OMD.
	Detroit, Mich.	A, MC, S&S.
	Fort Wayne, Ind.	MC.
	Indianapolis, Ind.	MC, S&S.
	Lansing, Mich.	MC.
	Springfield, Ill.	MC.
	Minneapolis, Minn.	A, I&C, MC, S&S.
	Duluth, Minn.	S&S.
	Fargo, N. Dak.	MC, S&S.
	Madison, Wis.	MC.
	Milwaukee, Wis.	MC.
	Pierre, S. Dak.	MC.
5	Fort Worth, Tex.; Regional Headquarters: 816 Texas and Pacific Bldg., Throckmorton and Lancaster Sts.	A, I&C, MC, S&S, OMD.
	Amarillo, Tex.	MC, S&S.
	Dallas, Tex.	A, MC, S&S.
	El Paso, Tex.	S&S.
	Houston, Tex.	A, I&C, MC, S&S.
	Little Rock, Ark.	MC.
	New Orleans, La.[3]	MC, S&S, WC.
	Oklahoma City, Okla.	MC, S&S.
	San Antonio, Tex.	MC, S&S.
	Shreveport, La.	S&S.
	Kansas City, Mo.	A, I&C, MC, S&S.
	Davenport, Iowa	MC.
	Des Moines, Iowa	MC, S&S.
	Lincoln, Nebr.	MC.
	Omaha, Nebr.	MC, S&S.
	Sioux City, Iowa	MC.
	St. Louis, Mo.	A, MC, S&S.
	Topeka, Kans.	MC.
	Wichita, Kans.	MC, S&S.
6	Portland, Oreg.; Regional Headquarters: 538 Pittock Block, 921 Southwest Washington St.[4]	A, I&C, MC, OMD, S&S, WC.
	Boise, Idaho	MC.
	Seattle, Wash.	MC, S&S.
	Billings, Mont.	MC.
	Great Falls, Mont.	S&S.
	Anchorage, Alaska[5]	MC.
7	San Francisco, Calif.; Regional Headquarters: 450 Golden Gate Ave., Box 36004.[6]	A, I&C, MC, OMD, OR, S&S.
	Carson City, Nev.	MC.
	Los Angeles, Calif.	A, I&C, MC, S&S.
	Phoenix, Ariz.	MC, S&S.
	Salt Lake City, Utah	MC, S&S.
	Denver, Colo.	A, I&C, MC, S&S.
	Albuquerque, N. Mex.	MC, S&S.

[1] A —Accounts.
I&C —Inquiry and compliance.
MC —Motor carriers.
OMD—Office of the managing director.
OR —Operating rights.
S&S —Safety and service.
WC —Water carriers and freight forwarders.

[2] Regional director of water carriers and freight forwarders stationed in this office also responsible for water carrier and freight forwarder matters in Region 2.

[3] Regional director of water carriers and freight forwarders stationed in this office also responsible for water carrier and freight forwarder matters in Region 3.

[4] Regional director of water carriers and freight forwarders also responsible for water carrier and freight forwarder matters in Region 7.

[5] Receives technical direction from central office in Washington, D.C.

[6] Regional auditor also responsible for accounting matters in Region 6.

[F.R. Doc. 64-8692; Filed, Aug. 26, 1964; 8:48 a.m.]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 24, 1964.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 67098. By order of August 20, 1964, the Transfer Board approved the transfer to McCabe Moving & Storage Co., a corporation, Portland, Oreg., of the operating rights issued by the Commission March 10, 1964 and January 17, 1947, under Certificates Nos. MC 78277 and MC 78277 Sub 2, respectively, to Richard F. McCabe, doing business as McCabe Moving & Storage Co., Portland, Oreg., authorizing the transportation over irregular routes of general commodities, excluding household goods, and other specified commodities, between points within 3 miles of Portland, Oreg., including Portland; agricultural commodities and livestock, from points in Wasco, Sherman, Gilliam, Morrow, and Jefferson Counties, Oreg., to points served by railroad and to steamship docks in said counties; and livestock between points in Wasco County, Oreg., on the one hand, and, on the other, points in Clark, Skamania, Benton, Walla Walla, Franklin, and Adams Counties, Wash. Earle V. White, c/o White & Southwell, 2130 Southwest Fifth Avenue, Portland, Oreg., 97201, attorney for applicants.

[SEAL] HAROLD D. McCOY,
Secretary.

[F.R. Doc. 64-8693; Filed, Aug. 26, 1964; 8:48 a.m.]

CUMULATIVE CODIFICATION GUIDE—AUGUST

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during August.

1 CFR

Page

Ch. I ... 11782

3 CFR

PROCLAMATIONS:

3603 ... 11255
3604 ... 11489
3605 ... 11797
3606 ... 11799
3607 ... 11883
3608 ... 11995
3609 ... 12231

EXECUTIVE ORDERS:

Mar. 21, 1924 (revoked by PLO 3427) ... 11455
Jan. 28, 1926 (revoked by PLO 3427) ... 11455
4121 (revoked by PLO 3433) ... 11920
6184 (revoked by PLO 3427) ... 11455
10530 (amended by E.O. 11164) ... 11257
10794 (superseded by E.O. 11171) ... 11897
11073 (amended by E.O. 11173) ... 11999
11164 ... 11257
11165 ... 11801
11166 ... 11803
11167 ... 11805
11168 ... 11885
11169 ... 11889
11170 ... 11893
11171 ... 11897
11172 ... 11997
11173 ... 11999

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:

Memorandum of August 15, 1964 ... 11807

5 CFR

213 ... 11328, 11407, 11442, 11597, 11642, 12001, 12105.
410 ... 11960
530 ... 11689
531 ... 11689
550 ... 11491, 11689
771 ... 11834

PROPOSED RULES:

890 ... 11844

6 CFR

50 ... 11971

7 CFR

51 ... 11328, 11743
52 ... 11331, 11442
53 ... 12105
301 ... 11521, 12233
354 ... 11743, 11901
722 ... 11143, 11521
728 ... 11443, 11690
730 ... 11901, 12001
777 ... 11642
811 ... 11700
831 ... 11491, 11824
849 ... 11702
862 ... 11913
908 ... 11143, 11443, 11522, 11702, 12001
910 ... 11143, 11443, 11703, 12002
911 ... 11703, 11704
915 ... 11704, 12002

7 CFR—Continued

Page

921 ... 11144
924 ... 11705
925 ... 11177
926 ... 11953
927 ... 11178
944 ... 11705, 11706
945 ... 11706
946 ... 11144
948 ... 11407, 11492, 11953
958 ... 12003
965 ... 11259
989 ... 11522
1001 ... 12236
1006 ... 12236
1007 ... 12236
1014 ... 12236
1015 ... 12248
1041 ... 11524
1063 ... 11444
1098 ... 11524
1101 ... 11524
1138 ... 11331
1421 ... 11407, 11492, 11525, 11644, 11826, 11830, 11832, 11833, 12004.
1427 ... 11145, 11331, 11525, 11744
1434 ... 11833
1443 ... 11411, 11414
1446 ... 12065
1475 ... 12006
1483 ... 12010, 12067
1485 ... 11179

PROPOSED RULES:

33 ... 12116
51 ... 11973
58 ... 11192
728 ... 11535
925 ... 11501
926 ... 11925
948 ... 11423
980 ... 12033
981 ... 11653, 11841
987 ... 11501, 11599
993 ... 11599
1001 ... 11205
1006 ... 11205
1007 ... 11205
1014 ... 11205
1015 ... 11205
1030 ... 11161
1031 ... 11161
1032 ... 11973
1047 ... 11600, 12086
1062 ... 11973
1066 ... 11278, 12034
1067 ... 11653, 11973
1097 ... 11974
1099 ... 11973
1102 ... 11974
1103 ... 11458
1107 ... 11458
1108 ... 11974
1120 ... 11974
1126 ... 11974
1127 ... 11974
1128 ... 11974
1129 ... 11974
1130 ... 11974
1136 ... 11535
1137 ... 11841

8 CFR

Page

103 ... 11956
204 ... 11956
206 ... 11957
214 ... 11957
223 ... 11493
245 ... 11493
248 ... 11494
249 ... 11494
264 ... 11959
289 ... 11494
299 ... 11495

9 CFR

74 ... 11332, 11444, 12107
76 ... 12108
78 ... 11444
94 ... 11332
97 ... 11914

PROPOSED RULES:

92 ... 11458

10 CFR

30 ... 11445, 11651

PROPOSED RULES:

Ch. I ... 12035

12 CFR

1 ... 12298–12300
10 ... 12300
11 ... 12300
12 ... 12303
15 ... 11333
16 ... 12303
208 ... 11177
217 ... 11150
570 ... 11334

PROPOSED RULES:

206 ... 12127
335 ... 12116

13 CFR

107 ... 12109
121 ... 11525, 11707

PROPOSED RULES:

107 ... 11424
121 ... 11927

14 CFR

4b ... 11151
40 ... 11151
41 ... 11151
42 ... 11151
71 [New] ... 11259, 11334, 11335, 11527, 11579, 11707, 11836, 11837, 11914, 11915, 11960, 12013, 12014, 12111, 12260, 12261
73 [New] ... 11151, 11446, 11961
75 [New] ... 11527, 11579, 11707, 11915, 12014, 12111, 12261.
91 [New] ... 11151
97 [New] ... 11580, 11633, 11962, 11971, 12262
99 [New] ... 11446, 11528
127 [New] ... 11708
151 [New] ... 11335
171 [New] ... 11336
221 ... 12014
225 ... 11744
288 ... 12027
385 ... 12028
399 ... 11415, 11589

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